

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Carla Cain,	.	Docket #CV-22-360 (CFK)
	.	
Plaintiff,	.	
	.	United States Courthouse
vs.	.	Philadelphia, PA
	.	September 13, 2022
Cindy Bass,	.	9:00 a.m.
City of Philadelphia,	.	
	.	
Defendants.	.	
.....		

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
BEFORE THE HONORABLE CHAD F. KENNY
UNITED STATES DISTRICT COURT JUDGE

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1 THE CLERK: All rise please. Court is now in
2 session, the Honorable Chad F. Kenney presiding.

3 THE COURT: Okay, we're on the record in Cain vs.
4 Bass in the City of Philadelphia, and it's 360-22. Counsel
5 for the record?

6 MR. CARNES: John Carnes representing Carla Cain.

7 MR. MARTIN: And Aaron Martin representing Carla
8 Cain.

9 MR. D. SMITH: Good morning, Your Honor, David Smith
10 representing Cindy Bass.

11 MS. ISSA: Layal Issa representing Cindy Bass.

12 MR. FIELD: Good morning, Your Honor, Benjamin Field
13 for the City of Philadelphia.

14 THE COURT: All right, good morning everybody.

15 MR. R. SMITH: Good morning, Your Honor, Ryan Smith
16 for the City of Philadelphia.

17 THE COURT: All right, everybody have a seat. We're
18 on the record, and, Mr. Carnes, a brief opening?

19 MR. CARNES: Yes, Your Honor. My client, who is
20 here in the Courtroom, Carla Cain, she is a democrat in the
21 22nd Ward. She was a competitor of Cindy Bass, who is the
22 ward leader. In 2019, she applied to become the primary
23 contact and to open and register the 22nd Ward Democratic
24 Committee RCO, Registered Community Organization. She made
25 that application on June 15th. The paperwork was accepted by

1 the Planning Commission, and she was the registered party,
2 and she proceeded accordingly. Then, in approximately a year
3 later in August of 2020, a new application was submitted
4 outside of the one-month period when applications are to be
5 submitted, and they're due the month of June. So hers was
6 filed June 15th of 2019, and the renewal would be 2021.

7 So on August 13th of 2020, a year later almost, a new
8 application was filed. This started a flurry of activity in
9 which Councilwoman Bass became involved to seek to remove
10 Carla Cain as the primary contact. There were communications
11 back and forth between the Planning Commission and the
12 commissioner, and she had certified the application form on
13 August 13th, and there was indication that Carla Cain had
14 been removed, but then there was no indication or change in
15 the records to establish that she had been removed. Carla
16 Cain remained in that position and renewed her application in
17 June 3rd of 2021. Thereafter, in approximately September of
18 2021, an application came before the RCO of regarding a
19 property identified as 244 East Springer Street in the 22nd
20 Ward, which is co-extant with the 19119 zip code, Your Honor.
21 So these applications come as a little matter of history,
22 and, typically, when there's a zoning hearing board
23 application for a variance or a special exception, it's
24 supposed to be forwarded by a process to the RCOs. There is
25 usually one RCO, which is the coordinating RCO and then

1 another or more RCOs that also become involved, depending
2 upon their proximity, and they gather community input to then
3 identify their position to the zoning hearing board. The
4 councilwoman's office is also contacted if it's within her
5 ward regarding any of these zoning applications.

6 So, finally, after being there for quite some time and
7 having renewed in 2021, an application comes up, and, again,
8 the process springs forward. Again, Councilwoman Bass seeks
9 to remove her and to place the same two people that she
10 previously identified as having been her proposed parties in
11 the August 13th, 2020, application, and then, at this point,
12 after, again, Councilwoman Bass becoming involved, she is
13 essentially told to put on her hat as a ward leader. She is
14 the ward leader of the 22nd Ward and then to write a letter.
15 There is absolutely no thing in the zoning ordinance that
16 specifies that this procedure exists, and there was no
17 regulation in place that established that this is a procedure
18 that can be used. The sum of it is that Carla Cain is then
19 removed after a letter is sent on October 13th, 2021, and,
20 again, Carla Cain does not get notified as to what happens,
21 but a review of the records establishes that about November
22 of 2021, her -- she is no longer listed as the primary
23 contact, and the two parties that have been identified by the
24 councilwoman become the new contacts.

25 It's our understanding, based upon the testimony

1 provided, that that RCO has never done anything, that the
2 only time it was called into action at 244 East Springer
3 Street, it was immediately shutdown. And it is our
4 understanding that 244 East Springer Street did go before the
5 zoning hearing board ultimately, and there was no RCO
6 activity involved. That's more of a side note. But the main
7 point here is, Your Honor, that Cindy Bass, using her
8 authority, interfered with an ordinance of the city that
9 provided for an RCO, an RCO that is part of the zoning
10 ordinance. It's meant to establish an appropriate procedure
11 for zoning applications, and she used the color of her
12 authority to do so and to attack, essentially, Carla Cain,
13 who was a political {quote} "enemy," I guess you would say or
14 a challenger. That's our position, Your Honor.

15 MR. D. SMITH: Good morning, Your Honor. Again,
16 David Smith representing Cindy Bass. Carla Cain did not form
17 an RCO. She registered the 22nd Ward Democratic Committee as
18 a participant in the RCO process, and she made herself as the
19 spokesperson for the 22nd Ward Democratic Committee. She
20 lacked the authority to do so. She admits -- and Your
21 Honor's order requiring a stipulation, we provided her
22 admissions and the documents -- she admits that she lacked
23 the authority of the Democratic Committee to do so. When the
24 ward leader, Cindy Bass, learned of it, she substituted as
25 the spokesperson for the 22nd Ward Democratic Committee, a

1 political position, people of her choosing, which she had a
2 right to do as the leader. This is no different than a case
3 of identity theft. Somebody without the authority assigned
4 herself to represent the 22nd Ward Democratic Committee.
5 When the leadership of the Democratic Committee learned of
6 that, it directed a change, which it had an absolute right to
7 do.

8 Your Honor, in your September 8 Order, defined a very
9 narrow scope of today's proceedings. First, a stipulation to
10 avoid witness testimony of relevant agreed facts. I think,
11 Your Honor, we'll find that the stipulation the parties
12 negotiated last week is comprehensive and is -- and resolves
13 all of the issues that are before Your Honor today. It's --
14 I've been thinking of it more or less as a parol evidence
15 situation. The documents, the applications submitted by
16 Carla Cain clearly identify that she is registering a
17 political committee to participate in the RCO process and
18 appointing herself. She admits, and the -- her responses to
19 request for admission are part of the stipulation. She
20 admits that she was not authorized by the committee, the
21 Democratic Committee, but rather took it upon herself. The
22 Democratic Committee then has the right to choose its
23 representative, which it did.

24 Your Honor said in this order that you're most
25 interested in first looking at the ordinance. The ordinance

1 is Joint Exhibit-8, and the ordinance provides that it's an
2 organization seeking recognition, so this is not something
3 that Carla Cain formed. The organization is the preexisting
4 22nd Ward Democratic Committee. The ordinance then provides
5 different paths for different types of organizations to
6 become recognized, registered, and to participate in the RCO
7 process. There is one path for neighborhood organizations,
8 non-profits, unincorporated associations and so on, and that
9 requires a formal formalization with rules and bylaws and so
10 on. That is not the process that Carla Cain followed here.
11 There is a separate process for ward organizations separately
12 stated in the ordinance, and that is how Carla Cain
13 registered the 22nd Ward Democratic Committee.

14 In the second of her registrations, she falsely stated
15 that she had the authority, the permission of the ward
16 leader, to register. She didn't. The ward leader runs the
17 22nd Ward Democratic Committee and gets to pick the
18 spokesperson for the committee. Your Honor asked for brief
19 openings to demonstrate the awareness of the narrow issues
20 and why the facts favor in their side. In this case, we are
21 here on a preliminarily -- a motion for a preliminary
22 injunction on likelihood of success. There is an absolute
23 right of the ward leader to choose who will be the
24 spokesperson for the 22nd Ward Democratic Committee, and
25 there is an absence of state action. We have cited

1 previously to the Court in our motion to dismiss, which I can
2 see was denied, but we cited the long string of cases in the
3 Third Circuit and in the Eastern District of Pennsylvania
4 holding that a ward leader -- that ward politics, and, as
5 counsel said, the competition for the leadership of the 22nd
6 Ward Democratic Committee is not state action. That is
7 internal to the political process, and it is not state
8 action.

9 And so there's not a likelihood of success for those two
10 reasons, and the most prominent case, Your Honor, is the
11 Moore vs. Democratic Party. But the cases that we cite
12 tended to be cases in which there was a contest for the
13 leadership. Here, we've got a contest for the spokesperson
14 for the Democratic Committee.

15 THE COURT: Yes, and I -- that's why those cases
16 don't apply unless determining the facts here because this is
17 about a city ordinance. It is not about a fight. It is
18 about a fight between ward politics, and ward politics are
19 involved. And, of course, the Courts stay out of that, all
20 right? This, though, is about this ordinance and the
21 allegation that a city councilperson used their authority
22 under the color of state law to have this ordinance -- to
23 have somebody removed without process, and I am not hearing
24 any process yet. I am hearing that it was her absolute
25 right, not your absolute right to dictate to a bureaucrat

1 that they are to remove somebody. There's processes involved
2 and motions to strike --

3 MR. D. SMITH: Your --

4 THE COURT: -- unless the ordinance tells me
5 otherwise.

6 MR. D. SMITH: Your Honor --

7 THE COURT: That is why we are here.

8 MR. D. SMITH: Well, Your Honor, if I may disagree.
9 The ward has the right to designate who will be its
10 spokesperson, and that right is in the ward leader, and it
11 does not have to be a process. On the City's side, the
12 organization gets to choose who will be its spokesperson.
13 That is purely a political decision in which this Court
14 should not be involved because it is not state action.

15 THE COURT: I am not saying who should be the
16 spokesperson. I am just saying, "All right, the ordinance is
17 in place." Now, what is your response to -- because --

18 MR. CARNES: Your --

19 THE COURT: -- counsel is saying, "Look, Judge, we
20 are agreeing pretty much on all the facts here, and we really
21 don't need evidence because the stipulations of fact pretty
22 much set forth what both sides are saying.

23 MR. CARNES: Your Honor, I think that the Court has
24 properly addressed the issue. It is an ordinance. It has no
25 authority for what has been done, and the history of it shows

1 that the Planning Commission people were pushed to do this
2 because, technically, as I had said in my opening, and I
3 don't think it's disputed, Carla Cain, who the record will
4 establish, was the first vice chair of the Democratic 22nd
5 Ward, was also a committee person who was on the estate
6 committee, took it upon herself, and there was nothing that
7 prohibited her whatsoever to register, to get involved, and
8 she did that under that zoning ordinance. And then there was
9 no action whatsoever as I indicated for a year, and then
10 attempts were made to remove her, and those attempts were
11 initially -- you couldn't tell what happened. The record is
12 a little unclear, but it looks as though the Planning
13 Commission was besieged by her and sought to remove her and,
14 in fact, the -- her staff believed that they had removed
15 Carla Cain in 2020 when they filed a change application
16 outside of the period in which you are permitted to do so.

17 So all the rules have been -- have not been followed.
18 And, Your Honor, you know, here we are. Carla Cain is here.
19 Cindy Bass is not here. We're here at 9:00 o'clock, prepared
20 to move forward, and there's no witness. She is our first
21 witness. We subpoenaed her to be here, and we're prepared to
22 go forward. So this is an attempt by the City. I'd say
23 it's somewhat arrogant to just try to --

24 THE COURT: All right, this is -- wait a minute.
25 Where is your client? She's been subpoenaed.

1 MR. D. SMITH: Yes, she has been subpoenaed, Your
2 Honor, and she will be here. She had to drop off her child
3 at school. She has no other way for her child -- and I told
4 her that we were having argument before testimony begins,
5 and --

6 THE COURT: It wasn't argument. It was openings.

7 MR. D. SMITH: Openings, yes, Your Honor.

8 THE COURT: All right, let's create a record.
9 Again, I'm just -- I'm hearing what you're saying is that she
10 had no authority in the first place to represent whatever she
11 was representing. I just want to find out and then create a
12 record and make sure the record is complete. I don't want to
13 go over anything that was stipulated, so you can call your
14 next witness --

15 MR. D. SMITH: But, Your Honor --

16 THE COURT: -- when we went --

17 MR. D. SMITH: -- may I finish?

18 THE COURT: Oh, I put you where? Counsel, have a
19 seat. Go ahead.

20 MR. CARNES: Okay, thank you.

21 MR. D. SMITH: Your Honor, there was no removal
22 here. There was a designation of, first, the entity that is
23 registered is the 22nd Ward Democratic Committee. The
24 committee chose its representative, and it assigned a
25 representative, which was not Carla Cain. Now, also on the

1 issue of irreparable harm, assuming her claim, assuming her
2 facts as true, all she had to do, if she wanted to be an RCO,
3 is register a new organization, not the 22nd Ward Democratic
4 Committee, which she had no authority from the ward leader to
5 represent, and she admits, and it's in the stipulation, there
6 are other RCOs functioning in the 22nd Ward, and she is free
7 to participate in them if she wants. So she is not in any
8 way being prevented from participating in the RCO process.
9 The only thing she is prevented from doing is assigning
10 herself as the spokesperson of the 22nd Ward Democratic
11 Committee against the wishes of the ward leader. Thank you.

12 MR. R. SMITH: Your Honor, may I be heard briefly?

13 MR. D. SMITH: Thank you.

14 MR. R. SMITH: From the City's perspective, Your
15 Honor, the ordinance speaks for itself and states that, "An
16 organization may be recognized as an RCO if it meets certain
17 factors." Further, what that organization may do is
18 designate a primary contact person. It doesn't create an
19 individual right in any person. It creates a right for an
20 organization that's a community group or a non-profit or a
21 political ward committee, as is the case here, to weigh in
22 officially on zoning matters via a community meeting. After
23 that community meeting, they report back to the zoning board
24 what their position is, as counsel said. In this case, the
25 City is simply allowing the organization itself to resolve

1 the internal dispute. If this were a non-profit or a
2 neighborhood association, the City would do the same thing,
3 that is the City can't dictate to an organization who they
4 select as their primary contact person. In fact, that could
5 implicate First Amendment problems. Rather, the City said,
6 "We recognize this dispute here between these two parties.
7 We're going to the organization that's registered and its
8 leadership to resolve it, whether that was by committee vote,
9 by the ward leader's decision, by an executive director or a
10 board of directors if it's a non-profit. In cases where
11 we've had disputes before, that is what we've done, and
12 that's what the City planned and commissioned to here.

13 So, just to be a little bit more precise on definitions
14 as I'm sure Your Honor is aware, a ward is a geographic
15 subdivision of the city. It's not political in nature, but,
16 in each ward, the parties may form political committees,
17 which are then elected -- the committee persons, of which,
18 are elected by the people who are residing in that ward. So
19 both Ms. Bass and Ms. Cain are elected committee persons for
20 the 22nd Ward Democratic Political Committee. That's the
21 organization that the applications that we've stipulated to
22 be made clear that Ms. Cain registered as an RCO. As far as
23 the likelihood of success on the merits and the irreparable
24 harms, Your Honor, I would like to speak to those at this
25 point starting with the irreparable harm first.

1 As counsel said, Ms. Cain could form her own
2 organization and register it as an RCO at anytime she wishes
3 within the application cycle. The record is clear. The
4 stipulated fact, no city employee prevented her from doing so
5 or implied that she couldn't. No city employee prevented her
6 from attending any public meeting of the zoning board that
7 she wishes, any RCO meeting, which are open to the public, or
8 lobbying her local politician or being involved in local
9 politics that she is or, in fact, contacting applicants, that
10 is, developers directly about certain projects. She may
11 continue to do those things. And so, the primary contact
12 person here that the organization selects is literally just
13 the person who designates to receive e-mails and letters
14 regarding zoning applications in its geographic area.
15 There's no powers or duties other than to have an active e-
16 mail address or, if you prefer, a mailing address.

17 And, as far as the likelihood of success on the merit,
18 that's where those facts are relevant, Your Honor. There's
19 no First Amendment retaliation here as Ms. Cain testified in
20 her deposition. She couldn't identify any protected activity
21 for which the City actually retaliated against her. She also
22 could not articulate a due process violation because, one,
23 there's no protected liberty or property interest at stake.
24 The organization is the right holder here under the ordinance
25 and the regulations, and, as far as whether there was process

1 due, it would be due to that organization and not any
2 individual. I think the confusion or the conflation here is
3 between a public elected official position of some kind and
4 this primary contact person, and when it's a political ward
5 committee, those lines become muddy. But, in this case, the
6 City, I'll reiterate, did what it always does and when
7 there's a dispute, which, thankfully, isn't very often over
8 who the primary contact person should be and that's allow the
9 organization to resolve it whatever form that takes.

10 THE COURT: All right. Does that say that in the
11 ordinance?

12 MR. R. SMITH: Your Honor, the specific circumstance
13 of the disputed primary contact person is not covered in the
14 ordinance. To be frank, the newest addition of the
15 regulations make a bit more clear how the City will handle
16 this stipulation in part because of these events. But the
17 prior version allows --

18 THE COURT: So this -- the new version --

19 MR. R. SMITH: Yes, Sir.

20 THE COURT: -- what does that -- what process does
21 that require?

22 MR. R. SMITH: Your Honor, the newest version simply
23 specifies that the executive director may request more
24 information -- state planning may request more information.
25 And in the case of -- I'll read it to you, if you permit me

1 just a minute to find it.

2 (Pause in proceedings)

3 MR. R. SMITH: "An RCO may submit" -- this is
4 regulation section 12.3.4, Updates and Corrections. "An RCO
5 may submit a written request to the Executive Director to
6 correct or update its registration information at anytime.
7 This request shall be submitted or verified by the primary
8 contact person as listed on the RCO's current registration
9 unless the primary contact is unavailable due to death,
10 medical condition, or other exceptional circumstances. The
11 Executive Director may request additional documentation to
12 verify any modification to an RCO's registration information.

13 THE COURT: So it still contemplates going through
14 the RCO?

15 MR. R. SMITH: Through the primary contact, Your
16 Honor?

17 THE COURT: Yes.

18 MR. R. SMITH: Yes, that's right. So the situation
19 is anybody can fill out the online form. I can fill it out
20 today, the online form, for the 22nd Ward Democratic Ward
21 Committee and say, "I'd like to be the primary contact
22 person."

23 THE COURT: Right.

24 MR. R. SMITH: So the idea is to check with the
25 existing person that we know the e-mail of --

1 THE COURT: Right.

2 MR. R. SMITH: -- what's going on?

3 THE COURT: Right.

4 MR. R. SMITH: So the question --

5 THE COURT: But the ordinance is the ordinance.

6 Anybody can do it, and you've done it, and it's done, and I'm
7 it. And the question is, "Okay, where's the process to
8 remove me?" On file and I turn around, I'm not the primary
9 person.

10 MR. R. SMITH: Exactly, Your Honor, but --

11 THE COURT: And that's what we're going to see, what
12 was filed here, and how was it done? Did somebody in city
13 council had to walk in and say, hey, remove it based on my
14 word?

15 MR. R. SMITH: Your Honor, again, the organization
16 is the right holder here, not the individual.

17 THE COURT: Where does it say that in the ordinance?

18 MR. R. SMITH: The ordinance begins, "An
19 organization that seeks recognition as a registered community
20 organization," and it goes on. And then 11 -- this 14-303
21 (11A) part B, "An organization shall file a registration
22 request with the Commission on a form provided by the
23 Commission, which shall include the following: the name of a
24 contact person.

25 THE COURT: Right. That's what I think we have

1 here. I mean, look, the ordinance is the ordinance, and how
2 it gets challenged in terms of who filed, and they were filed
3 wrong, and it was fraud, and it was this and that, does
4 somebody walk in and say to a bureaucrat, "Hey, this was
5 fraud. This is all wrong. Take that off. Put me in."

6 MR. R. SMITH: Yes, Your Honor, the way --

7 THE COURT: They get to do that?

8 MR. R. SMITH: If they are the leader of the
9 organization, absolutely.

10 THE COURT: Yes, I just -- I'm just questioning
11 whether that is due process, even if it doesn't say what the
12 process is on file. I get filed. Here I am. I'm the
13 person, and I don't get notice. What happened? Oh, somebody
14 walked in and said, "You're not the guy." I don't know that
15 that's -- that has something, then, to do with the bureaucrat
16 being told by somebody without any process to say, "Hey,
17 you're removed." This second regulation goes a little bit
18 further, but look at your own regulation. It says, "Identify
19 that person." Identify, in other words, who's the contact
20 person. The contact person would be that primary person,
21 except if somebody walked in and said, "No, make me the
22 contact person." Who are you to tell me that? Well, I'm so
23 and so. Let me give you my ID.

24 MR. R. SMITH: Your Honor, if you were the leader of
25 the organization that you registered or represented as a

1 board or powered by a board to do that, I would agree with
2 you one hundred percent threat you are the only one who can
3 change it. In this case, we verified with the primary
4 contact, who was Ms. Cain, that the request was legitimate.
5 She disputed the request, but she didn't say, "I don't know
6 who that is." She didn't say, "That's the mistake in
7 request." She said -- she, essentially, articulated that she
8 disputed that Ms. Bass could make a statement.

9 THE COURT: All right. Well, so your defense is
10 inequity? You must do equity?

11 MR. R. SMITH: No, Your Honor, it is --

12 THE COURT: In a declaratory judgment, she makes a
13 statement that's a lie? So equity -- you have to do equity.
14 So she lied, so, therefore -- on her form?

15 MR. R. SMITH: Not at all, Your Honor. The initial
16 application is, frankly, to the City, irrelevant. The issue
17 is that whenever the organization would like to make a
18 change, it can do so. It can designate on a renewal form a
19 new person. It can designate, as the regulation says, at
20 anytime, request to make a change.

21 THE COURT: And who do they notify? Who is
22 notified? All the notifications are supposed to go through
23 the primary person, right?

24 MR. R. SMITH: Because that's the person the
25 organization provided, Your Honor. That's who we have the

1 contact information for. So let's imagine --

2 THE COURT: And the organization came in and said,
3 "Remove that person."

4 MR. R. SMITH: Your Honor, let's imagine a situation
5 where --

6 THE COURT: No, I think I understand it now. You're
7 going to call your first witness?

8 MR. CARNES: Yes, we're going to call -- Cindy Bass
9 is here now --

10 THE COURT: All right.

11 MR. CARNES: -- so we're going to call her as a
12 witness.

13 THE COURT: Did anybody else have anything to add
14 before we make a record?

15 ALL: (No verbal response).

16 THE COURT: Go ahead, counsel.

17 MR. CARNES: Your Honor, there's a bench copy of the
18 joint exhibits in front of you as well as some additional
19 exhibits that may be -- Ms. Bass?

20 MS. BASS: Yes.

21 MR. CARNES: Would you --

22 MS. BASS: Sure.

23 (Pause in proceedings)

24 THE CLERK: Please remain standing. Please remain
25 standing.

Bass - Direct

23

1 CINDY BASS, DEFENDANT, SWORN

2 THE CLERK: Thank you, you can be seated.

3 MS. BASS: Thank you.

4 THE CLERK: And can you please state your full name?

5 MS. BASS: Cindy Bass.

6 THE CLERK: Thank you.

7 MR. CARNES: Your Honor, may I approach with the --
8 it is an exhibit. It's the same as Your Honors'. This is
9 the witness joint exhibit index and exhibits.

10 (Pause in proceedings)

11 MR. CARNES: Your Honor, I'm calling Ms. Bass as on
12 cross.

13 DIRECT EXAMINATION (AS ON CROSS)

14 BY MR. CARNES:

15 Q. Ms. Bass, could you just state your name for the record,
16 please?

17 A. Cindy Bass.

18 Q. And B-A-S-S is how --

19 A. Yes.

20 Q. -- the last name is spelled? Okay. And, Ms. Bass, you
21 know Carla Cain seated at my right behind me?

22 A. Yes.

23 Q. Okay, and Carla was a supporter of yours back in 2011
24 when you ran for council?

25 A. Yes.

Bass - Direct

24

1 Q. And you are now opposed to one another in terms of your
2 viewpoints, correct?

3 A. It depends on what the viewpoint is.

4 Q. But she has spoken up and criticized you in public, and
5 you'VE heard her say that?

6 A. Well, that's true, yes.

7 Q. Yes, and she's questioned your transparency and your
8 finances and other things of that nature as well, correct?

9 A. She has questioned transparency. I'm not aware of any
10 question about my finances.

11 Q. Okay, and you were elected to council when the -- I guess
12 you would call it the new zoning ordinance of the City of
13 Philadelphia was enacted in approximately 2012, is --

14 A. Yes, correct.

15 Q. -- that correct? And you were also a sponsor of the
16 section of the zoning ordinance that deals with Registered
17 Community Organizations in chapter 12 thereof, is that
18 correct?

19 A. That's correct.

20 Q. Okay. And as of June of 2019, Carla Cain was the vice
21 chair -- first vice chair of the 22nd Ward Democratic
22 Committee, is that correct?

23 A. That is correct.

24 Q. And she was also on state committee?

25 A. At that time, yes.

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1 Q. Okay, and she had run against you for ward leadership in
2 2018?

3 A. Well, the seat was vacant, and there were several people
4 who were running, including myself, Carla Cain, Derek Green,
5 and Alex Talmadge. There were four people who were vying for
6 the seat.

7 Q. So she was one of four candidates?

8 A. Correct.

9 Q. Okay. And between, say, 2013 and 2019, the -- there was
10 no 22nd Ward Democratic Committee RCO, correct?

11 A. That is correct.

12 Q. Okay. And --

13 A. To the best of my knowledge, yeah.

14 Q. You were aware, are you not, it's part of the listed
15 exhibits, and you've seen it before that Carla Cain made an
16 application on forms available from the City and supplied
17 information necessary to register the 22nd Ward Democratic
18 Committee June 15th of 2019?

19 A. I was made aware after the fact, after the fact of the
20 registration.

21 Q. Okay. When did you first become aware?

22 A. I can't tell you the exact date, but it was sometime
23 after the application was made.

24 Q. Okay, and just as a background fact, as a councilwoman,
25 do you receive information at your office regarding any

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1 applications for a variance or a special exception that would
2 be within the district that you represent, the 8th
3 Councilmanic District?

4 A. Correct.

5 Q. And that would include the 22nd Ward, is that correct?

6 A. Correct.

7 Q. Okay. And, in terms of the RCO and its operation under
8 the zoning ordinance, there's a procedure when there is a
9 variance or special exception that requires that the RCOs be
10 contacted, is that correct?

11 A. I'm sorry. I don't understand your question.

12 Q. When a person comes within the 8th Councilmanic District
13 or within the 22nd Ward to seek a variance or special
14 exception that's going to go before the zoning hearing board,
15 would they not have to seek some input from the RCOs?

16 A. Correct.

17 Q. Okay, and the Planning Commission is the gatekeeper of
18 that information, is that right?

19 A. Correct.

20 Q. Now, does that application for an RCO also go to your
21 council offices?

22 A. It does.

23 Q. Okay, and when there's a coordinating RCO, is that a
24 determination that's made by you as a city councilwoman?

25 A. That -- currently, it is. That's something that has

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1 changed, though, over the years. Originally, at that time,
2 it was something that was worked out among neighboring or
3 overlapping RCOs, so it wasn't at that time when it was
4 registered a decision that would've come from my office. It
5 would've been a decision between the other RCOs that overlap
6 the area.

7 Q. Now, it was in 2019 when the 22nd Ward Democratic
8 Committee RCO was registered. Had the process been changed
9 that you're councilmanic officer would make that
10 determination?

11 A. No.

12 Q. When did that change take place?

13 A. That probably happened sometime during the pandemic, so
14 that was in 2020.

15 Q. Okay. Now, let me just go back. When we bring up the
16 pandemic, as the ward leader of the 22nd Ward in 2020 during
17 the pandemic, did you not exclude Carla Cain from
18 participating in ward meetings beginning with the pandemic?

19 MR. D. SMITH: Objection, Your Honor, outside the
20 scope of this hearing.

21 MR. CARNES: Your Honor, just some background, I --
22 part of this is stipulated that there were differences, but
23 this is a First Amendment issue. The communications in the
24 ward, you know, were the testimony has already been provided
25 in deposition that Ms. Bass, as an offer of proof, did

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1 exclude Carla Cain and certain people who criticized her from
2 participating in their ward meetings, and that resulted,
3 ultimately, in an injunction order issued by Judge Coyle in
4 the Court of Common Pleas in Chester County prohibiting her.

5 THE COURT: I'll sustain the objection.

6 MR. CARNES: Okay, thank you.

7 BY MR. CARNES:

8 Q. So that changed in 2020, is that correct?

9 A. Uhm-hum.

10 Q. And would you say that, after Carla Cain registered in
11 June of 2019, you became aware that she had registered,
12 excuse me, in 2020? Would the pandemic help give you an idea
13 as to the timing?

14 A. I believe it was in 2019 that I was aware, but I was not
15 aware at the time when she actually registered.

16 Q. Okay.

17 A. Yeah.

18 Q. And what did you do when you found out, Councilwoman,
19 that she had registered the 22nd Ward RCO?

20 A. We -- well, I made a determination that we would, you
21 know, need a partner that we could work with within the RCO.
22 And, as the ward leader, I asked Christine Foster if she
23 would be willing to take on the task.

24 Q. Okay, and who all -- did you ask anybody else?

25 A. I believe we asked Dominic Mathis (phonetic), who was Ms.

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1 Cain's partner, if he would be willing to serve as a second.

2 Q. Okay. And you say that took place in 2019, you think?

3 A. I believe so.

4 Q. Okay.

5 A. Yeah.

6 Q. Now, did they agree to serve --

7 A. Yes.

8 Q. -- for the ward?

9 A. Yes.

10 Q. Okay. And what did you do next?

11 A. In terms of?

12 Q. Now that you had their consent to acting as, you know,
13 who you wanted to be the RCO on the RCO. What happened next?
14 What did you do next?

15 A. Inform the Planning Commission of the change that we
16 would like to make.

17 Q. Now, if we have an exhibit that constitutes an August 13,
18 2020, application -- I believe that's correct -- would that
19 change your recollection of the dates? Exhibit-3. Look at
20 Exhibit-3, please.

21 (Plaintiff's Exhibit-3 previously marked for
22 identification)

23 A. So your question is, you're asking me do I remember this
24 application?

25 Q. Well, it's an application submitted by Anonymous User

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1 August 13, 2020, to organize type ward committee 22nd Ward
2 RCO.

3 MR. D. SMITH: Your Honor, I'm going to object to
4 the form of that question. Anonymous User, it's been
5 established in discovery that all print outs start with
6 Anonymous User, and then this party submitting is identified
7 later in the document.

8 MR. CARNES: Your Honor, I'm just reading from the
9 first page of it. I don't disagree with --

10 THE COURT: Thanks for --

11 MR. CARNES: -- what was stated.

12 THE COURT: -- the clarification. Thank you for the
13 clarification.

14 MR. CARNES: Thank you, Your Honor. Yeah, I don't
15 disagree with what was stated.

16 BY MR. CARNES:

17 Q. But turning to that Exhibit-3 --

18 A. Yes.

19 Q. -- the last page of that exhibit has political ward RCO
20 registration certification Cindy Bass --

21 A. Uhm-hum.

22 Q. -- okay? And that's -- that was prepared, I assume, with
23 the rest of that application?

24 A. I'm assuming.

25 Q. Did you review this application with Christine Foster?

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1 A. Likely, but I can't say for sure. You're talking about
2 over two years ago.

3 Q. Well, does this date now ring a bell in terms of when you
4 met with Christine Foster and Mr. Mathis?

5 A. It does not.

6 Q. No?

7 A. I'm sorry, it does not.

8 Q. Okay. Now, what happened after -- were you aware that
9 under -- I'm not sure whether it's the ordinance or the
10 regulation, but the paperwork that you obtained from the
11 City, if you go on the website for an RCO, indicates that
12 June is the application period and renewal period, are you --

13 A. Okay.

14 Q. -- aware of that?

15 A. No.

16 Q. Okay, so your August 13, 2020, application, wasn't that
17 not treated as a duplicate application out of time?

18 A. I cannot tell you.

19 Q. Okay, did you find out after this submission was made on
20 August 13, 2020, whether it was effectuated to remove Carla
21 Cain as the primary contact from the 22nd Ward Democratic
22 Committee RCO?

23 A. I'm sorry, I can't recall exactly if that's, you know --
24 I don't know.

25 Q. Did you address this later in 2021 a year later?

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1 A. It's possible.

2 Q. Did you write a letter on October 13, 2021, addressed to
3 Eleanor Sharpe, Deputy Director, expressing that Christine
4 Foster should be listed as the primary contact for the 22nd
5 Ward Democratic RCO? I'm talking about Exhibit-6 on the
6 exhibit list.

7 (Plaintiff's Exhibit-6 previously marked for
8 identification)

9 A. Yes.

10 Q. So you did deal with this again in 2021?

11 A. Correct.

12 Q. And did you find out whether this was effective or not?

13 A. I'm sorry, I don't recall.

14 Q. Do you know who the ward -- who is the primary contact
15 for the 22nd Ward Democratic Committee RCO as we sit here
16 today?

17 A. I believe it's Christine Foster.

18 Q. And who would be the second?

19 A. It should be Dominic Mathis.

20 Q. And do these parties both have to be committee people in
21 the 22nd Ward?

22 A. They should be, but it's not a requirement.

23 Q. Are they both committee people in the 22nd Ward?

24 A. Yes.

25 Q. Dominic Mathis is currently a committee person in the

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1 22nd Ward?

2 A. Yes, he's an appointed committee person.

3 Q. He was appointed?

4 A. Yes, correct.

5 Q. After he lost the election?

6 A. That is correct.

7 Q. After he was stricken from the ballot?

8 A. I'm not sure why he was, you know -- why he didn't win,
9 but --

10 Q. Okay.

11 A. Yeah, I don't know.

12 Q. Now, I want to ask you to please turn to some e-mails
13 that are -- we'll start with your exhibits, which are in 13,
14 Ms. Bass. It's Exhibit-13 there, and we're looking at Bass
15 one through eight.

16 (Defendant's Exhibit-13 previously marked for
17 identification)

18 Q. Do you see those e-mails?

19 A. Uhm-hum.

20 Q. Okay. Now, this is dealing with 2020. First of all, is
21 Christian Matozzo, last name spelled M-A-T-O-Z-Z-O, is he on
22 your staff? Was he on your staff in 2019?

23 A. He was at that time.

24 Q. Okay. And how about Tyrone Barge and Rodney Jamison
25 (phonetic)?

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1 A. They were at that time.

2 Q. Okay. Now, I believe we have to look backwards to get
3 the sequence here. So, if you look at -- no. If we look at
4 the -- excuse me, on Bass-1, this is dated September 16,
5 2019, and it's an e-mail addressed to yourself. Is that your
6 e-mail address, Ms. Bass, cindy.bass@phila.gov?

7 A. Correct.

8 Q. And your personal e-mail, bass -- behind that --
9 cindy.bass@gmail.com?

10 A. Correct.

11 Q. And copied are Tyrone Barge and Rodney Jamison?

12 A. Yes.

13 Q. It says, and it -- so this is a 2019 notice sent to you
14 saying that Carla Cain is registered in the 22nd Ward as an
15 RCO?

16 A. Uhm-hum.

17 Q. Is this the first you knew of it?

18 A. Yes.

19 Q. Okay. And we have not received any other discovery from
20 you that relates to 2019. We now turn to 2020. Okay. Now
21 go, if you would, to page eight, Bass-8 and 7. This e-mail
22 is dated September 5, 2020, is that correct? A. Yes.

23 Q. And this is from Christine Foster?

24 A. Uhm-hum.

25 Q. So this would be after the August 13th, 2020, application

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1 had been filed?

2 A. Uhm-hum.

3 Q. And you had already spoken to her about that matter,
4 correct?

5 A. Correct.

6 Q. And what she is sending is a forwarded message dated the
7 day before on September 4th from rco@phila.gov, and is that
8 the RCO coordinator that would be either Justin -- Jonathan
9 Goins or Ms. Bowers?

10 A. I believe so.

11 Q. Okay, so on September 4, a response comes back regarding
12 the August 13th application, and what does that say?

13 A. What -- you want me to read the response?

14 Q. The "good afternoon" from --

15 A. Good afternoon --

16 Q. -- RCO to Foster.

17 A. Right. "Good afternoon. I am writing to follow up
18 regarding your recent RCO registration application. As I
19 presume, you are aware there is already an active registered
20 2022 Democratic Ward RCO since June of 2019. The existing
21 22nd Ward -- Democratic Ward RCO status does not expire until
22 summer of 2021, as we are not able to register two RCOs under
23 the umbrella of a single political ward, and the 22nd is not
24 up for renewal. We would need to treat your registration as
25 a request to change contact information, primary and

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1 secondary, for the existing RCO -- for the existing
2 registered RCO. 22nd would still need to renew next summer.

3 Our typical procedure for RCO contact info request is to
4 confirm the change with the existing primary contact, Carla
5 Cain, in this case. If we can't get that confirmation or the
6 change is contested, we would turn to organizational
7 leadership, in this case, the ward leader, to confirm the
8 change. The ward leader certification submitted with your
9 registration should be sufficient, but I am writing to
10 confirm that you understand what we we're proposing that
11 renewal wouldn't be needed next summer and that you wish to
12 proceed with the contact changes I've described to you.
13 Please feel free to follow up with any questions or concerns,
14 and please respond when you are able."

15 Q. And that's signed by -- that has the name, Jonathan
16 Goins?

17 A. Jonathan Goins. Sorry, I don't have reading glasses,
18 so --

19 Q. Okay.

20 A. -- it's a little challenge.

21 Q. Now, and, again, Mr. Goins was the person, as you
22 understand it, who was in charge of the RCO registration
23 process?

24 A. Correct.

25 Q. Okay. And did the -- did Christine Foster make

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1 applications subsequently in 2021 in June to renew the RCO?

2 A. I believe so.

3 Q. Do we have a copy of that renewal application?

4 A. Do I have a copy of it? No.

5 Q. Okay. Were you aware that Cindy -- Carla Cain, excuse
6 me, did apply on June 3rd of 2021 to renew the RCO?

7 A. No.

8 Q. And by the way, this e-mail that we're looking at at the
9 top of page Bass-7, it has a big black spot, and it says
10 redacted. Do you know what would have been there?

11 A. No.

12 Q. And your initial e-mail carrying the e-mail from Jonathan
13 Goins to Cindy Foster -- I mean, Christine Foster -- was
14 forwarded to Charles Richardson, and who is he?

15 A. He's a staffer (indiscern.) --

16 Q. Okay, so this was being run --

17 A. -- district director.

18 Q. -- by staff, right?

19 A. Yes.

20 Q. Okay. And now, we turn to Bass-3 and 4. Again, there's
21 a -- now, an e-mail dated from RCO on the bottom of Bass-3 to
22 Carla Cain informing Carla Cain of the request to change and
23 requesting her response, is that correct?

24 A. (No verbal response).

25 Q. That's on September 21st, so --

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1 A. Uhm-hum.

2 Q. And, above that, you see an e-mail, and that comes from
3 cindybass@phila.gov, and it says -- can you read that?

4 A. Uhm-hum.

5 Q. What does that say?

6 A. "Hi, Jonathan. Can you call me on this? 215-820-4991.
7 Thank you."

8 Q. And, again, above that on page three, there's a big black
9 mark that says redacted

10 A. Uhm-hum.

11 Q. Okay.

12 MR. D. SMITH: Your Honor, if I may address that,
13 these redactions at the top are the forwards to my law firm.

14 THE COURT: You don't have to address it. You don't
15 have to address it.

16 BY MR. CARNES:

17 Q. I'm turning to Bass-5 and 6. In -- and now, we have an
18 e-mail from Jonathan Goins addressed to you at phila.gov
19 again, and below that is an e-mail from you dated September
20 23rd where you say -- that's your e-mail to Mr. Goins,
21 correct?

22 A. Where are you looking at?

23 Q. Bottom of page six or of Bass-6.

24 A. Oh, page six. I'm sorry. Okay.

25 Q. And you asked Mr. Goins to call you, and you gave him

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1 your phone number?

2 A. Uhm-hum.

3 Q. And he then says he's going to call you?

4 A. Uhm-hum.

5 Q. And, above that, that same day, the 23rd, you say you're
6 free most of the day?

7 A. Uhm-hum.

8 Q. And, again, there's another -- okay. Now, on October
9 20th, 2020, you say, "I would like the" -- what -- it's from
10 Cindy Bass to Jonathan Goins. What does that mean? What is
11 that -- what's happening there?

12 A. Where are you? What page?

13 Q. Page five.

14 A. Okay.

15 Q. It's October 20, 2020.

16 A. Uhm-hum.

17 Q. What's this referred to?

18 A. I can't -- I cannot tell you. "I would like the 22nd
19 Ward RCO to be included on the list." I'm really not sure.

20 Q. Well, below, it says from Jonathan Goins that same day
21 earlier in the morning at 9:57 --

22 A. Yes.

23 Q. -- 10:00. To Cindy Bass. Subject RE: 22nd Ward, and,
24 below that, it says redacted.

25 A. Correct. I don't have the --

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1 Q. So you don't -- we don't know what --

2 A. I don't have the information in terms of what was
3 redacted, so I don't know what, you know, this particular
4 statement was actually referring to. I can't speak to it.

5 Q. But was it your understanding that you had effectuated
6 the change of the primary RCO at about this date, October
7 20th, when you were talking about the 22nd Ward RCO to be
8 included on the list?

9 A. I cannot tell you if that was what we were discussing at
10 that point. I know that we were working towards making sure
11 that we have the contact change to Ms. Foster, but I can't
12 tell you if it was done at that point. This was over two
13 years ago, so I really can't speak specifically as to, you
14 know, what this is referring to.

15 Q. Okay. I'd ask you now turn to the next exhibit, which is
16 Exhibit-12, City 95.

17 (Pause in proceedings)

18 Q. Bass -- I mean, no, I'm talking City-12. City Exhibit-
19 12, which is the city discovery.

20 (Defendant's Exhibit-12 previously marked for
21 identification)

22 A. Oh, sorry.

23 Q. Do you see on City 95, the very -- pretty much to the
24 end?

25 A. Okay.

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1 Q. There's an e-mail from Jonathan Goins to Christian
2 Matozzo. Let me -- regarding 22nd Ward apt. Do you see
3 that?

4 A. Uhm-hum.

5 Q. And Christian Matozzo then responds how?

6 A. He asked Jonathan to call him.

7 Q. To call him?

8 A. Uhm-hum.

9 Q. And that's September 27 -- September 16th and a September
10 27th response by Christian Matozzo, is that correct?

11 A. Uhm-hum, correct.

12 Q. Backing up again on City page six, on page six and page
13 seven, there's an e-mail from the bottom of page six on this
14 page seven dated September 4th addressed to Ms. Foster, and
15 that's the e-mail you read before. The next e-mail up on
16 September 11th, again, there's an e-mail asking to confirm
17 that she wants to be the ward leader, correct?

18 A. That she wants to be the RCO.

19 Q. I mean RCO.

20 A. Yes.

21 Q. And above that, on September 14th, Jonathan Goins is
22 writing to Mr. Mathis, and then, on September 17th, another
23 e-mail requesting confirmation from Ms. Foster. Now, did --
24 do we -- did Mr. Mathis ever agree to be the second person?

25 A. Yes.

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1 Q. He did?

2 A. Yes.

3 Q. And yet, in 2021, we came back to this issue, correct?

4 A. We came back to this --

5 Q. The issue of who was the RCO --

6 A. Yes.

7 Q. -- the RCO --

8 A. Uhm-hum.

9 Q. -- primary contact and secondary contact. I would like
10 you to take a look at Exhibit-12, the beginning of that, the
11 RCO application, do you see that? It would be pages one
12 through three.

13 A. Okay.

14 Q. And that's the application for renewal by Carla Cain.
15 And isn't it true that there is no application made by
16 Christine Foster to renew in 2021?

17 A. I don't know. I'm not sure.

18 Q. In 2021, there was an application made regarding a
19 property on Springer Street at 244 East Springer, do you
20 remember that happening?

21 A. No.

22 Q. Do you remember a person that -- from South Philadelphia
23 that had run for council having a property on 244 East
24 Springer Street?

25 A. A person from South Philadelphia?

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- 1 Q. I believe so. Mr. Anastasio?
- 2 A. Vernon Anastasio? I --
- 3 Q. Yes, Vernon Anastasio.
- 4 A. I don't know that he owns the property. I think he was
- 5 the attorney on the case.
- 6 Q. So he was presenting somebody with an application at 244
- 7 East Springer Street in 2021.
- 8 A. Okay.
- 9 Q. And what happened after that application was submitted?
- 10 A. I cannot tell you.
- 11 Q. Would that have been -- would that information have been
- 12 supplied to the primary contact for the RCO?
- 13 A. It could have been. You know, it could've been worked
- 14 out among the RCOs. There was -- in that neighborhood, it
- 15 would be either East Mount Airy Neighbors or Cliveden Hills.
- 16 Those were the two active RCOs in the community, and so those
- 17 were the two that it most likely would have either been
- 18 assigned to or would have been directed to.
- 19 Q. Okay. So I'm asking you to turn to Exhibit-13, which is
- 20 the Bass exhibits that were supplied.
- 21 A. What section is that?
- 22 Q. It would pages nine --
- 23 A. Is that on section 12?
- 24 Q. Yeah -- no, it's on 13.
- 25 A. Thirteen, I'm sorry. And pages?

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1 Q. Nine through seventeen.

2 A. Okay.

3 Q. So, if we start at pages 13 and 14, in the middle of 13
4 on September 20, 2021, do you see an RCO notification sent to
5 vern@alawphilly.com?

6 A. Uhm-hum.

7 Q. Would that have been -- be Vernon Anastasio?

8 A. I'm assuming so. I don't have his e-mail address, but
9 I --

10 Q. Okay.

11 A. -- probably assume, yeah.

12 Q. And that September 20 at 3:17 p.m., and its Ccs are
13 RCOZBA, RCO notification, and then we see
14 rconotification@phila.gov and C. Cain with an e-mail address
15 of ccain225@gmail.com, and then info@eastmountairy.org, and
16 then we also have a copy, Charles L. Richardson and Tyrone
17 Barge. So this e-mail was sent to an RCO notification
18 address and as well as the 22nd Ward Democratic Committee
19 with Carla Cain as the primary RCO, primary contact, and all
20 sent to the East Mount Airy group with their primary contact,
21 correct?

22 A. Uhm-hum.

23 Q. And it was also copied to your council -- to your staff
24 at council?

25 A. Correct.

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1 Q. So after the September 20, '21, notification on --
2 turning back a page on September 24, 2021, there's an e-mail
3 in the middle of the page.

4 MR. D. SMITH: What page are you looking at, please?

5 MR. CARNES: Page 12. Bass-12, page 4.

6 BY MR. CARNES:

7 Q. And it's -- it starts on Friday, September 24. That's
8 three days later at 10:38 a.m. RCO notification wrote, "Good
9 morning. The contact for the 22nd Ward Democratic Committee
10 is NO," in big bold, "longer C. Cain." And what -- it then
11 identifies Christine Foster, correct?

12 A. Uhm-hum.

13 Q. And above that is an e-mail from Carla Cain at 1:07 later
14 that day addressed to Vern at Philly Law, RCOZBA,
15 info@mountairry, Charles Richardson, Tyrone Barge, and others
16 saying, "I'm appealing this notice and would like to inform
17 you that Christine Foster is not RCO lead for the district.
18 I would like a full investigation into this since this is an
19 outcome of ongoing harassment," do you see that?

20 A. I see that.

21 Q. That's at 1:07, and backing on to page 11 at 1:30 p.m.,
22 Mr. Richardson, your staff member, gets involved and says,
23 "Importance high," and he sent an e-mail to RCO, and that
24 would be Jonathan Goins?

25 A. Uhm-hum.

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1 Q. Is that yes?

2 A. I'm assuming.

3 Q. And she says, "Please. Please, the below e-mail from
4 Carla Cain, and her e-mail address is supplied, she
5 represents the 22nd Ward Democratic Committee. How can this
6 issue be resolved?" So your staff was, at that point in
7 time, recognizing, in 2021, after -- in September after the
8 June registration that the RCO was still -- had as primary
9 contact Carla Cain, correct?

10 A. Correct.

11 Q. Okay. And now, we have Jonathan Goins' response a few
12 days later on September 27th on the same e-mail stream
13 addressed to Nicole Odizemere (phonetic) and Jeanine Allen-
14 Bowens, and it also says RCO notification; Eleanor Sharpe.
15 So that now appears in the caption. Who is Eleanor Sharpe?

16 A. She works for the Planning Commission.

17 Q. Okay. And what does he tell Jeanine Bowling -- Allen-
18 Bowens?

19 A. "My apologies. I should have replied to you directly
20 when this question first came up. The council office does
21 not have the authority to change contact information for an
22 RCO. This will need to go through a process with us, PC
23 staff, to sort it out, and Ms. Cain will need to remain the
24 primary contact while we do so. There is a history here that
25 I can fill you in on. Let me know if you have time for a

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1 Teams chat later today.

2 Q. Okay. And then, previously, going -- or moving forward
3 in time, we have a -- an e-mail from Jeanine Allen-Bowens,
4 this time addressed to Charles L. Richardson with a Cc to you
5 and Jonathan Goins, "Please" -- forwarding everything and
6 saying, "Please see the e-mail below and contact Jonathan
7 Goins," is that correct?

8 A. Yes.

9 Q. Now, we move into September 28th, and Jonathan Goins is
10 now writing to Jeanine Allen-Bowens, Charles L. Richardson,
11 with a Cc to you, and he's saying what?

12 A. "Councilmember Bass and Mr. Richardson, we don't have any
13 set procedure in place for when there's a disagreement about
14 primary contacts for RCOs or, in this case, where we have
15 separate RCO applications under the same ward umbrella.
16 Thankfully, neither happens very often. When we spoke on
17 this last year, I believe we requested something in writing.
18 A word doc is fine from Ward Leader Bass representing the
19 22nd Ward making a specific request to change the primary
20 contact info, name, and e-mail for the 22nd Ward RCO. I
21 haven't spoken yet with Eleanor, but I think that would still
22 be sufficient to make the change. My apologies for the
23 confusion on this. We're just trying to be consistent in how
24 we handle things across all RCOs. Thank you for being
25 responsive and trying to clear things up. Jonathan."

Bass - Direct

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1 Q. And Eleanor that's referenced is the same Eleanor Sharpe
2 that was identified previously, that's --

3 A. I believe so.

4 Q. Okay.

5 A. Yes.

6 Q. And then --

7 A. If I have to do more reading, can I get my reading
8 glasses, please?

9 Q. Absolutely.

10 A. Okay, thank you.

11 Q. I mean, that's --

12 A. Okay, all right.

13 Q. Court's --

14 A. Thank you.

15 Q. -- indulgence.

16 (Pause in proceedings - witness retrieving glasses)

17 A. Okay.

18 BY MR. CARNES:

19 Q. So do you have your glasses?

20 A. I do.

21 Q. Okay. So turning now to the bottom of nine, the
22 beginning of ten --

23 A. Okay.

24 Q. -- we have an e-mail that followed from your staff,

25 Charles Richardson, saying that -- essentially, what does it

Bass - Direct

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1 say? "I have to look for the paperwork, but a letter from
2 the councilwoman" -- and then he puts {paren.} (ward leader)
3 {paren.} was included with the application naming Ms. Foster
4 as her designee for the chair and contract for the 22nd Ward
5 RCO, is that correct?

6 A. That's correct.

7 Q. So he's trying to say this was done before. And then we
8 go back later in -- on page nine a little later in the day,
9 Mr. Richardson sends you an e-mail about the RCO. And, in
10 the second paragraph, he says what?

11 A. "Jonathan asked that we now supply a letter from you with
12 your ward leader hat on on behalf of the ward asking for
13 Christine to be listed as primary contact and as committee
14 chair. According to him, this will finally solve the issue."

15 Q. And then what's the next paragraph say?

16 A. "They want to avoid appearances of council choosing
17 contacts for RCOs even though it makes sense in this
18 particular case."

19 Q. And are their quotations around the words "ward leader
20 hat on" --

21 A. Uhm-hum.

22 Q. -- in the paragraph that you read before?

23 A. Yes.

24 Q. Okay. Now, I want you to look at just -- to just switch
25 for a second back to city. That's Exhibit-12, 96 and 97.

Bass - Direct

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1 You had previously testified about Mr. Mathis accepting his
2 position of ward -- of -- as being a secondary contact under
3 -- for the RCO, is that correct?

4 A. Correct.

5 Q. Now, on page 97, there's an e-mail sent to him from
6 rco@phila.gov. That would be Jonathan Goins?

7 A. Uhm-hum.

8 Q. And that's stated at the bottom of page, 11:29, and it
9 says, "This message serves as notice to the 22nd Ward
10 Democratic Ward RCO that we have received a request to change
11 the contact information on file for the RCO. This change
12 would replace the currently listed contact information found
13 here, and there's a connection with a primary and secondary
14 contract listed in the attached registration application, and
15 the attached registration was supplied. Please respond to
16 confirm you received this message." And Mr. Mathis responds
17 at 8:03 p.m. as how?

18 A. "Good evening. I did not know that this would be
19 affecting my partner, Carla Cain. I would like to be removed
20 from the RCO."

21 Q. And turning the next page, on September 21 at 8:09, six
22 minutes later, what does he now say to the RCO?

23 A. "I'm sorry, that was not a valid e-mail. I gladly accept
24 the position in the RCO. Thank you very much, and it would
25 be a pleasure to serve my community. Dominic Mathis."

Bass - Direct

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1 Q. Now, did you speak with Mr. Mathis regarding this matter?

2 A. I don't recall speaking to him.

3 Q. Okay. I want to turn your attention now to City Exhibits
4 14 to 19 and 20.

5 (Defendant's Exhibit 14 previously marked for
6 identification)

7 (Defendant's Exhibit 15 previously marked for
8 identification)

9 (Defendant's Exhibit 16 previously marked for
10 identification)

11 (Defendant's Exhibit 17 previously marked for
12 identification)

13 (Defendant's Exhibit 18 previously marked for
14 identification)

15 (Defendant's Exhibit 19 previously marked for
16 identification)

17 (Defendant's Exhibit 20 previously marked for
18 identification)

19 Q. Again, on page 19, we have the application referenced
20 regarding 244 East Springer Street, do you see that?

21 A. Yes.

22 Q. At 18, we have what we saw before was the change of the
23 democratic committee person by Ms. Bowens with Carla Cain's
24 statement that she's appealing?

25 A. Uhm-hum.

Bass - Direct

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1 Q. And back on 14, we have communication from Mr. Richardson
2 back and forth with Mr. Goins regarding the letter, is that
3 correct?

4 A. Uhm-hum.

5 Q. And on October 7, Mr. Richardson says what?

6 A. "Who is the letter to be addressed to?"

7 Q. It's from Charles Richardson to Jonathan Goins, CC to
8 Jeanine Allen-Bowens. What does he say on October 7th?

9 A. "Charles, just looping back to this request. Let me know
10 if you -- let me know any additional questions."

11 Q. And above that, he says?

12 A. "Sorry, I'll send it."

13 Q. And what's that? Is that the letter?

14 A. I assume so.

15 Q. And Jonathan Goins is giving directions to Mr. Richardson
16 as to how to prepare the letter?

17 MR. D. SMITH: Objection.

18 THE COURT: Sustained. Rephrase it.

19 MR. CARNES: Okay.

20 BY MR. CARNES:

21 Q. What does the -- on the middle of 14, Charles Richardson
22 communicates with Jonathan Goins, and he has a question, do
23 you see that?

24 A. On the -- on September 30th, is that where you are?

25 Q. At 2:57:22, what does he say?

Bass - Direct

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1 A. "Jonathan, who is the letter to be addressed to?"

2 Q. And then Jonathan Goins responds, at 3:12?

3 A. Ideally, Eleanor, but anything to PCPC would work -- will
4 work.

5 Q. Okay. And then Jonathan Goins follows up again later
6 that day?

7 A. Uhm-hum.

8 Q. Okay. And the letter that was prepared, was that a
9 letter that you signed?

10 A. Where's the letter?

11 Q. It's -- I believe it's City #5 at the back of -- yeah,
12 City #6, excuse me. There's an October --

13 MR. D. SMITH: No, no, it's Joint Exhibit #6.

14 Q. Yeah, Joint Exhibit #6, my error.

15 (Joint Exhibit-6 previously marked for identification)

16 (Pause in proceedings - attorneys confer)

17 MR. D. SMITH: That binder has the stipulation in
18 the front and then the joint exhibits in the back.

19 MR. MARTIN: If I might inquire, Your Honor, that
20 appears to be much thinner than what the witness has.

21 MR. D. SMITH: Two-sided copy.

22 MR. MARTIN: Double sided, but it's identical.

23 MR. D. SMITH: Yes, killing less trees.

24 MR. MARTIN: Thank you.

25 BY MR. CARNES:

Bass - Direct

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1 Q. So on City-5, we have previously reviewed the e-mails,
2 the directions that were supplied in the correspondence
3 between Mr. Richardson and Mr. Goins, and then there's this
4 October 13th, 2021, letter, and it has a signature, Cindy
5 Bass. Did you sign it, or is that stamped? Do you know?

6 (Defendant's Exhibit-5 previously marked for
7 identification)

8 A. I don't know. It looks like it might be stamped, but
9 that is my signature.

10 Q. Okay. And is this something that was prepared for you by
11 Mr. Richardson?

12 A. I cannot say.

13 Q. And is it your understanding that sometime in
14 approximately November of 2021, the registration at the --
15 that is printed out by the City identifying the primary
16 contracts for RCOs has been changed to identify Christine
17 Foster as the primary contact?

18 A. I'm not aware.

19 Q. What has Christine Foster done since you wrote a letter
20 in her support on October 13, 2021?

21 A. You would have to --

22 MR. D. SMITH: Objection to form.

23 A. -- ask Ms. Foster.

24 THE COURT: Sustained. Anyways, what has she done?

25 MR. CARNES: Yeah, I -- okay.

Bass - Direct

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1 THE COURT: I mean, she went to the shore for two
2 weeks.

3 MR. CARNES: Yeah, that was -- you're right, Your
4 Honor.

5 BY MR. CARNES:

6 Q. In terms of activities as the primary contact of the RCO,
7 has the 22nd Ward RCO -- Democratic Ward RCO been involved in
8 any activities since she was appointed in 2021?

9 A. I think you would have to ask Ms. Foster.

10 Q. Do you remember when I asked you this question in your
11 deposition previously?

12 A. No.

13 (Pause in proceedings)

14 Q. I'm sorry, I can't find the spot right now. So do you
15 know what happened to 244 East Springer Street that was --

16 A. I do not.

17 Q. Okay, did that go before the RCO?

18 A. I cannot say. We hear hundreds of zoning cases.

19 Q. What's that?

20 A. We hear a lot of zoning cases, a whole lot.

21 Q. And do you hear a lot of it -- them in the 22nd Ward?

22 A. They're -- I would say they're equally distributed.

23 Q. Okay, how many would you say go through there a year?

24 A. A lot. I can't say -- give you a number, but it's a lot.

25 Q. And when they go before the zoning hearing board, do they

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1 go before the RCO?

2 A. Yes.

3 Q. Okay. So that means that Christine Foster would have had
4 some activities as the primary contact for the RCO since
5 September -- since October of 2021?

6 MR. D. SMITH: Objection.

7 THE COURT: Sustained.

8 MR. CARNES: One second.

9 (Pause in proceedings - attorneys confer)

10 BY MR. CARNES:

11 Q. Ms. Bass, are you aware whether or not there's a
12 procedure under the zoning ordinance or the regulations to
13 address circumstances when somebody makes an application for
14 an RCO and is denied?

15 A. I'm not aware what the procedure is.

16 Q. And what did you do to address Carla Cain's complaints
17 regarding the fact that she said there was no due process and
18 that she was being removed without any process?

19 MR. D. SMITH: Objection.

20 THE COURT: Overruled.

21 A. What did I do to --

22 BY MR. CARNES:

23 Q. Yes.

24 A. -- to address it? Well, Ms. Cain was not authorized to
25 set up a ward -- you know, the RCO on behalf of the ward, so

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1 this never should have happened in the first place.

2 Q. So you had no meeting with her or discussion with her at
3 all?

4 A. No, no.

5 Q. Okay, and just explain to me how this ward committee
6 works.

7 A. Sure.

8 Q. Okay? Once you're elected ward leader, you have a --
9 what's your designation at that point?

10 A. Ward leader.

11 Q. Okay --

12 A. Yeah.

13 Q. -- and what -- who's below you?

14 A. Ward chair.

15 Q. And who's below the ward chair?

16 A. I believe it's the first chair. There's a first chair,
17 second chair, third chair.

18 Q. And you can also bring your staff in to handle matters as
19 well, can you not?

20 MR. D. SMITH: Objection.

21 THE COURT: Sustained.

22 MR. CARNES: Okay.

23 BY MR. CARNES:

24 Q. What -- have you ever used -- do these people -- what do
25 they do? They work for you?

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1 MR. D. SMITH: Objection.

2 THE COURT: Sustained.

3 MR. CARNES: Okay.

4 BY MR. CARNES:

5 Q. And at the time that we're talking about, Carla Cain was
6 the first vice chair, correct?

7 A. Correct.

8 Q. You -- did you speak with Jonathan Goins about this
9 matter personally?

10 A. About which matter?

11 Q. About your determination that Cindy -- that Carla Cain,
12 excuse me, should be removed as the RCO primary contact.

13 A. Did I speak directly to him? No.

14 Q. You never spoke to him?

15 A. No, not to my recollection, no.

16 Q. So when you say "call me" in an e-mail, he never called
17 you back?

18 A. I don't believe so. I don't recall ever speaking with
19 him.

20 Q. Did you ever talk to Eleanor Sharpe about the matter?

21 A. I don't believe I did, no.

22 Q. Did you have your staff speak with -- like, for instance,
23 Mr. Matozzo, did you have him speak with Mr. Goins?

24 A. Very likely.

25 Q. How about Mr. Richardson?

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- 1 A. Very possible.
- 2 Q. So they spoke for you with Mr. Goins?
- 3 A. Correct.
- 4 Q. Now, did you recruit Christine Foster for this position?
- 5 A. I asked her. Yes, I did ask her.
- 6 Q. And have you spoken to her since about the position?
- 7 A. Yes.
- 8 Q. How often do you speak with her?
- 9 A. About this position?
- 10 Q. Yeah.
- 11 A. Very rarely. More in the context of, you know, just
- 12 unifying the ward because there's been some division around
- 13 this particular matter.
- 14 Q. Have you discussed with her whether to renew in June of
- 15 2023?
- 16 A. I don't recall ever speaking with her about that, no.
- 17 Q. Is there any reason why the 22nd Ward RCO had not been
- 18 established prior to June of 2019?
- 19 A. There were a number of other RCOs, as I mentioned
- 20 earlier, that were already operating in the community. They
- 21 were doing a great job. There was no need to duplicate
- 22 efforts. You know, it was something that was on the table to
- 23 be done further down the road in the future when, you know,
- 24 when you have free time, but there was no need or need --
- 25 immediate need to bring forth another RCO when we already had

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1 some really good ones.

2 Q. And the two good ones you had are the East Mount Airy and
3 the Cliveden Hills, you say?

4 A. Correct.

5 Q. And is the --

6 A. And, actually, I should add in West Mount Airy as well.

7 Q. Okay.

8 A. They were also an RCO.

9 Q. And is Cliveden Hills in the 19119 zip code?

10 A. Correct.

11 Q. It is? Okay.

12 A. All three are.

13 Q. Okay, and you were on the board of East Mount Airy, is
14 that right?

15 A. That's correct.

16 MR. CARNES: I have no further questions, Your
17 Honor. Thank you.

18 THE COURT: Questions?

19 MR. D. SMITH: Yes, Your Honor.

20 CROSS EXAMINATION

21 BY MR. D. SMITH:

22 Q. When were you elected ward leader?

23 A. June 2018.

24 THE COURT: How long are you going to be with the
25 witness?

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1 MR. D. SMITH: Maybe 15 minutes, Your Honor.

2 THE COURT: All right, let's take a -- literally, a
3 five minute break, okay?

4 MR. D. SMITH: Sure.

5 THE COURT: So when I say five minutes, I mean five
6 minutes, okay?

7 MR. D. SMITH: I'm not going to leave this table,
8 Your Honor.

9 THE COURT: Well, you can take a break, all right?
10 You can leave the table. You can sit down for a minute if
11 you like --

12 A. Okay.

13 THE COURT: -- but don't talk to anybody about your
14 testimony --

15 A. Okay.

16 THE COURT: -- all right?

17 THE CLERK: All rise, please.

18 (Recess)

19 THE COURT: We're set.

20 MR. D. SMITH: Thank you, Your Honor.

21 CROSS EXAMINATION (CONT'D)

22 BY MR. D. SMITH:

23 Q. You testified that you are both a councilperson and a
24 ward leader, is that right?

25 A. Correct.

1 Q. As a councilperson, what are your responsibilities with
2 respect to real estate development and zoning issues within
3 your council district?

4 A. We -- generally, we provide letters of support to the
5 RCO. We'll make a decision. Generally, if the community
6 supports a project, we support it. If the community does not
7 support it, we do not support it, so we generally have a very
8 community-driven process around land and development.

9 Q. And what are the RCOs with which you work to determine
10 what your positions will be for real estate development
11 within your district?

12 A. Well, there's quite a few. There's in the northwest.
13 Again, there's the Chestnut Hill Community Association, which
14 is an RCO. There is East Mount Airy Neighbors, the West
15 Mount Airy Neighbors. There's a 13th Democratic Ward RCO.
16 There's Tioga United RCO (indiscern.), Upper North Neighbors
17 Association RCO. There's quite a few.

18 Q. Yeah. In your opinion, have those RCOs served the
19 neighborhoods well during your time as council -- as a
20 councilmember?

21 A. Overall, yes.

22 Q. Okay. Now, you have a history with RCOs yourself, is
23 that right?

24 A. As far as?

25 Q. As far as participation in RCOs.

1 A. Yes.

2 Q. And what is your background in participation in RCOs?

3 A. Well, you know, working with them as necessary to help,
4 you know, encourage development, you know, or the opposite of
5 that in terms of, if we have a project that's problematic for
6 the community, but just really having a very strong, working
7 relationship. And also, we do sometimes monthly, sometimes
8 bimonthly calls with all of the RCOs in the district to talk
9 about development issues, concerns they have, things of that
10 nature.

11 Q. Were you at one time an officer of an RCO?

12 A. Not that I can recall.

13 Q. Okay.

14 A. Not that I can recall.

15 Q. With respect to your ward leader position, what are your
16 responsibilities with respect to real estate development
17 within the ward?

18 A. Well it's -- again, it's a community-driven process, so
19 we go by what the community wants. So as the ward leader,
20 you know, we work to make sure, #1) that the immediate
21 neighbors have been notified of a project that's pending.
22 You know, the city planning commission requires it up to 250
23 feet of said project that those neighbors need to be notified
24 and have the opportunity to vote on whether they want that
25 because they're the most impacted in the neighborhood. So we

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1 generally work with the neighbors and work with the RCOs to
2 make sure that those neighbors have a say, and attend the
3 meetings and vote.

4 Q. Now as councilperson, does your staff become involved in
5 real estate development and zoning issues?

6 A. Yes.

7 Q. And what is that involvement?

8 A. It varies, depending on what the need is. We may have
9 staff involved if someone is bringing forth a project
10 particularly that's controversial. There are some projects
11 that are, you know, pretty easy, you know. They go through,
12 they're voted up and down, they stay or they go based on
13 that. On occasion you have projects that are a little more
14 controversial, you know, where neighbors are, you know,
15 adamant, the planning commission, you know, may follow the
16 lead of the community and our lead -- or excuse me, the
17 zoning board, ZBA, may follow our lead or they may do their
18 own thing. And so, you know, those are the cases generally
19 that we are very intimately involved with.

20 Q. Do you make an effort to keep your councilperson and ward
21 leader roles separate?

22 A. Absolutely.

23 Q. Can you tell us how you do that, please?

24 A. Well, I generally don't involve myself as the ward leader
25 in things in the 22nd. So as an example, you know, having a

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- 1 22nd ward RCO, again, wasn't necessary, wasn't something that
2 I thought would be productive. I thought it could be a bit
3 messy in terms of just not being a good look for the 22nd
4 ward of having the ward leader, you know, weigh in on a
5 decision that also is supported or not supported by the 8th
6 District councilperson and that's -- you know, both of those
7 positions I hold. So I think that we have other RCOs that
8 are doing a great job and there was no need to bring forth
9 another one.
- 10 Q. Now you learned in 2019 that Ms. Cain had submitted an
11 application --
- 12 A. Yes.
- 13 Q. -- for the 22nd democrat ward, democratic committee, is
14 that right?
- 15 A. Yes.
- 16 Q. And did you at the time, as ward leader, regard her as
17 having had authority to register the 22nd --
- 18 A. She --
- 19 Q. -- ward democratic committee?
- 20 A. She did not.
- 21 Q. Did you object at that time?
- 22 A. When I found out, yes.
- 23 Q. Now we have seen -- and if you would turn, please, to
24 that page city-7 in exhibit, I believe, 12, Joint Exhibit-12.
25 We've seen September 2020 correspondence regarding the

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1 typical procedure by which the city resolves contests with
2 respect to who should be the contact person, is that right?

3 (Joint Exhibit-12 previously marked for identification)

4 A. Yes.

5 Q. Okay. And if I may read that into the record. "Our
6 typical procedure for RCO contact" --

7 THE COURT: Where are you, exhibit what? What
8 exhibit?

9 MR. D. SMITH: Oh, I'm sorry, Exhibit-12, Your
10 Honor. It's City-00007.

11 THE COURT: All right, go ahead.

12 BY MR. D. SMITH:

13 Q. And in that email the city says, "Our typical procedure
14 for RCO contact info requests is to confirm the change with
15 the existing primary contact, Carla Cain in this case. If we
16 can't get that confirmation or the change is contested, we
17 would turn to organizational leadership, in this case the
18 ward leader, to confirm the change." Do you see that?

19 A. Yes.

20 Q. And it goes on to say, "The ward leader certification
21 submitted with your registration should be sufficient, but I
22 am writing to confirm that you understand that what we are
23 proposing, that renewal would be needed next summer and that
24 you wish to proceed with the contact change as I've described
25 it." Do you see that?

1 A. Yes.

2 Q. So when you objected in 2019, nothing had happened to
3 change the contact person through September of 2020, is that
4 right?

5 A. That's correct.

6 Q. And in September of 2020 the RCO staff advised that they
7 were going to follow their normal procedure, which is to
8 check with organizational leadership, is that right?

9 A. Yes.

10 Q. Now if we look at joint Exhibit-1 -- excuse me, joint
11 Exhibit-2.

12 (Joint Exhibit-2 previously marked for identification)

13 A. Which page is that?

14 Q. Joint Exhibit-2 is -- and that's -- in that large binder
15 you have, it's tab 2.

16 A. Oh. Okay.

17 Q. Have you been able to find that?

18 A. Yes.

19 Q. This is an application -- again, it says anonymous user,
20 but we know that that's just the software. It shows a
21 submission on June 15th, 2019, do you see that?

22 A. Yes, I do.

23 Q. Under organization name, can you tell us what was
24 registered at that point?

25 A. 22nd Ward Democratic Committee.

1 Q. And who was the leader of the 22nd Ward Democratic
2 Committee?

3 A. Me, Cindy Bass.

4 Q. It then goes on, on the second page, that's city-00009,
5 under contact information for people, it says organization
6 type, do you see that?

7 A. Yes, I do.

8 Q. And what is the type of organization being registered?

9 A. A ward committee.

10 Q. And then underneath that it has the name of Ms. Cain, is
11 that right?

12 A. Correct.

13 Q. Did you authorize Ms. Cain to designate herself the
14 contact person or spokesperson for the 22nd Ward Democratic
15 Committee in real estate matters?

16 A. No.

17 Q. Did you in fact have an objection to her nomination of
18 herself?

19 A. Yes.

20 Q. And can you explain what your objection was?

21 A. My objection is that, #1) it was done without any sort of
22 contact, communication, you know, request, interest, you
23 know. We weren't notified until the registration was already
24 done. But beyond that, I had some concerns about the
25 representation that she will be providing to the community.

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1 You know, we had had a little bit of history of just sort of
2 a disruptiveness and being contrary in a lot of matters.

3 THE COURT: So I thought we were going to stay away
4 from this, right?

5 MR. D. SMITH: Okay, yes.

6 A. Okay.

7 MR. D. SMITH: I'm sorry, Your Honor.

8 THE COURT: I mean --

9 MR. D. SMITH: My question wasn't intended to be
10 that broad. I apologize.

11 A. Sorry.

12 BY MR. D. SMITH:

13 Q. Then if you would turn, please, to joint exhibit #4 --
14 oh, I'm sorry, it's joint exhibit #3, I'm sorry. This is an
15 application submitted on May -- excuse me, on August 13,
16 2020, is that right?

17 (Joint Exhibit-3 previously marked for identification)

18 A. Correct.

19 Q. And the organization type is what?

20 A. Award committee.

21 Q. And the organization name is?

22 A. 22nd Democratic Ward RCO.

23 THE COURT: Well, I've been through the document on
24 direct. I know what it's filed and filed for, and I know the
25 file up letter saying hey, we have two committees now

1 organized, we're going to change -- we'll consider this as a
2 change of name request.

3 BY MR. D. SMITH:

4 Q. Okay, well, if you would turn then just to the last page
5 of that document, there is a political ward RCO registration
6 certification, do you see that?

7 A. Yes.

8 Q. And is that your signature?

9 A. Yes, it is.

10 Q. And these are the representatives that you as ward leader
11 chose to represent the 22nd ward in real estate matters, is
12 that right?

13 A. That is correct.

14 Q. Now was it your intention that this group would override
15 or interfere with the existing neighborhood RCOs?

16 A. Not at all.

17 Q. What was the role that you anticipated?

18 A. I anticipated that this would be an RCO that would be
19 available if for some reason the other two or three were
20 unable to perform, but other than that, you know, that we
21 would continue on with the RCOs that have been performing and
22 doing a good job and were very familiar.

23 Q. All right. Now referring back to city-0007, which was
24 that email discussing the -- that the city would investigate
25 with ward leadership, did the city in fact contact you as

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1 ward leader to find out what the organization, the 22nd Ward
2 Democratic Committee, wanted as its representative in the RCO
3 process?

4 A. They did ask.

5 Q. Okay. And now if you would turn to Joint exhibit #6,
6 please.

7 A. Uhm-hum.

8 Q. Exhibit-6 is the letter that you provided in response to
9 that investigation by the city, is that right?

10 A. Correct.

11 Q. And it is on ward leader letterhead, is that right?

12 A. That is correct.

13 Q. Why is it on ward leader letterhead rather than
14 councilperson letterhead?

15 A. I was acting as the ward leader, and it was the ward to
16 RCO.

17 Q. Now you are aware that there is no limit under the city
18 ordinance to how many RCOs there are functioning within a
19 geographic area, is that right?

20 A. That is correct.

21 THE COURT: I am aware of that. Go ahead.

22 BY MR. D. SMITH:

23 Q. So would you have any objection to Ms. Cain forming her
24 own RCO and appointing herself as the spokesperson or contact
25 person for that RCO?

Bass - Cross

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1 A. Not at all.

2 MR. D. SMITH: I have no further questions.

3 MR. R. SMITH: Just briefly, Your Honor, one or two.
4 May I come around so I can see the witness maybe from the
5 podium? Thanks.

6 CROSS EXAMINATION

7 BY MR. R. SMITH:

8 Q. Good morning, council member Bass.

9 A. Good morning.

10 Q. I'm Ryan Smith, I represent the city defendant in this
11 case.

12 A. Thank you.

13 Q. Is the 22nd Ward Democratic Political Committee a city
14 entity?

15 A. The 22nd ward RCO?

16 Q. No, the political committee.

17 A. Is it a city entity? No.

18 Q. Okay. Is it affiliated with the government --

19 A. No.

20 Q. -- that is?

21 A. No.

22 Q. It's a private organization?

23 A. Correct.

24 Q. It's a component of the city democratic party, right?

25 A. That is correct.

Bass - Redirect

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1 Q. Do other parties have ward committees as well?

2 A. Yes, I believe so.

3 Q. In -- across the city in various wards?

4 A. Yes, oh, yes.

5 MR. R. SMITH: Nothing further. Thank you.

6 A. Okay, thank you.

7 REDIRECT EXAMINATION

8 BY MR. CARNES:

9 Q. Ms. Bass, this is -- I just have a question about your
10 prior testimony.

11 A. Okay.

12 Q. And I'm going to just approach if I may.

13 A. Sure.

14 Q. Because you had made a statement about the activities of
15 the RCO. And I'm showing you --

16 MR. CARNES: -- if I may approach, Your Honor?

17 MR. R. SMITH: Your Honor, I think this is -- I
18 think what he's trying to do is go back to his own direct to
19 confront the witness with deposition testimony, and it has
20 nothing to do with my cross.

21 THE COURT: Well, you talked about activities. Just
22 let me hear this section you're going to talk about.

23 MR. CARNES: It would only be one section, or one
24 thing that I would ask about.

25 THE COURT: He probably is, he just found it.

Bass - Redirect

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1 MR. CARNES: That's correct, Your Honor. That's why
2 I started --

3 THE COURT: He's got a paralegal, it's not --

4 MR. CARNES: No -- my attorney -- my co-counsel
5 could not find it at the time, and I apologize. This will
6 only take a second, Your Honor.

7 THE COURT: I've been there.

8 MR. CARNES: Okay.

9 THE COURT: Go ahead.

10 BY MR. CARNES:

11 Q. I'm approaching you. Do you see this notice of
12 deposition that took place on July 28th, 2022?

13 A. I do.

14 Q. Okay, and I'll just ask you, when I was asking you some
15 questions on page 34, we had gone back and forth about East
16 Mount Airy, West Mount Airy, the 22nd ward --

17 A. Okay.

18 Q. -- would never be the coordinating, it would be one of
19 the two, and it would also be involved.

20 A. Correct.

21 Q. And I asked you about the RCO, and I said where does the
22 22nd ward committee RCO have its meetings, and you said --

23 A. My understanding, there has not been a meeting.

24 Q. So there had never been a meeting up until -- that you
25 were aware of, up until July 28th, involving the RCO, the

Bass - Redirect

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1 22nd ward RCO?

2 A. Well, that was my understanding, but that's why I said
3 that I think that you should speak directly to Ms. Foster
4 because she could give you better information as to what her
5 activities were.

6 Q. Okay, but that's what you testified, that there hadn't
7 been a meeting that you're aware of.

8 A. To the best of my knowledge.

9 Q. Okay.

10 A. But that's why I said that you should really speak with
11 Ms. Foster about the activities of the RCO as a leader.

12 Q. Thank you. Thank you.

13 MR. R. SMITH: I have no further questions.

14 THE COURT: All right, you may step down.

15 MS. BASS: Thank you.

16 THE COURT: Thank you.

17 MR. MARTIN: Your Honor, at this time we'd like to
18 call Carla Cain.

19 CARLA CAIN, PLAINTIFF, SWORN

20 THE CLERK: Thank you very much. You can be seated,
21 please. And if you could, please state your full name for
22 the Court.

23 MS. CAIN: Carla Cain.

24 THE CLERK: And can you spell your last name?

25 MS. CAIN: C-A-I-N.

Cain - Direct

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1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. MARTIN:

4 Q. Ms. Cain, given the testimony we've already had from
5 council member Bass, I'll try to streamline my questions for
6 you. Where do you live?

7 A. 8 -- Philadelphia, Pennsylvania, 823 East Dorset Street.

8 Q. And how are you employed?

9 A. I am -- I have my own company.

10 Q. And what does your company do?

11 A. Home care.

12 Q. And how long have you been active in democratic city
13 politics?

14 A. Oh, well over 30 years.

15 Q. All right, and what positions do you currently hold?

16 A. Currently I'm a committee person in the 22nd ward, 25th
17 division.

18 Q. And have you previously held other positions in the
19 democratic party?

20 A. I was previously a committee -- a past cycle I was a
21 committee person first vice chair, and I was also on a state
22 committee.

23 Q. Okay. This has already been alluded to in testimony,
24 just a little bit by way of background. Can you tell us when
25 it was that you first became interested in submitting an

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1 application for the RCO?

2 A. 2019.

3 Q. Okay, and was there something in particular that provoked
4 you that you would be interested in doing that?

5 A. The development that was going on in the community.

6 THE COURT: Can you please keep your voice up, and
7 you can move the mic closer to your --

8 A. The development that was going on in the community.

9 BY MR. MARTIN:

10 Q. Now is development in the community something that you
11 had been keeping track of at that point?

12 A. To the best of my knowledge, yes.

13 Q. Okay. And were there other people who were like-minded
14 with you as to approaching development issues?

15 A. Correct, yes.

16 Q. And were there other people with you who were interested
17 in forming this RCO?

18 A. Yes.

19 Q. And as the primary contact person for the RCO, what kinds
20 of special privileges do you have in that role?

21 A. You get the opportunity to receive upcoming developments
22 that's going in the area.

23 Q. That's a -- you're referring to the notifications from
24 the city?

25 A. Correct, and notification from a developer.

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1 Q. When was the first time you became aware as to there
2 being any issue with you being recognized as the primary
3 contact person?

4 A. In 2020.

5 Q. Now was that around the same time as what's already been
6 testified to, the application submitted in August of 2020?

7 A. Yes, correct.

8 Q. And at that time, what's your understanding as to whether
9 you continued to hold the position or as to whether you were
10 removed?

11 A. My understanding is that it was supposed to be a process
12 of removing me, and I wasn't in any violation to be removed.

13 Q. Let me ask you to turn in that binder in front of you,
14 please, to tab 12. These are city documents.

15 UNIDENTIFIED SPEAKER: Look out, watch the water
16 pitcher, ma'am.

17 A. Oh, okay.

18 BY MR. MARTIN:

19 Q. And if you would, we're going to look at an email chain
20 between pages city-23 and city-26.

21 A. Okay, I -- okay, 22. Go to 23.

22 Q. Well, let's start at 25. It's in reverse chronological
23 order. Let's start on page 25.

24 A. Okay, I'm at 25.

25 Q. All right. Do you see the email there at the top of the

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1 page?

2 A. Yes.

3 Q. And am I right, that email is dated August 20th, 2020,
4 and it says from RCO. Do you know who actually authored
5 that?

6 A. You said the subject -- you said who offered that, who
7 was offering it?

8 Q. Yeah, who sent it to you?

9 A. Mr. Goins.

10 Q. Jonathan Goins, correct?

11 A. Correct, uhm-hum.

12 Q. And would you read that email, please?

13 A. "I am writing to make you aware that if you are already
14 or recently submitted an RCO registration application for the
15 22nd ward, the application referred to RCO meeting the first
16 Wednesday of each month as of August the 6th meeting to
17 discuss and create a new 22nd ward RCO. The application
18 lists primary, secondary contact, certification authorization
19 of the application by ward leader. As the applicant for the
20 22nd ward last June, the current list and primary contact of
21 the RCO, I am reaching out to you to confirm if you are aware
22 of the recent submission of application."

23 Q. And I think you may have skipped over a word. The last
24 sentence in the first paragraph, am I correct it says, "the
25 application lists new primary and secondary contacts"?

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1 A. Yes.

2 Q. All right. Let's move forward now here on page 24, am I
3 correct that that's an email from Jonathan Goins also to you,
4 and he says that he is "writing to follow up with my message
5 of August 20th regarding the 22nd ward RCO. Because I
6 haven't received a response from you, I am now writing to
7 inform you that we will be moving forward with the changes to
8 organization name and primary contacts as requested in the
9 newly submitted registration. Please reach out with any
10 questions or concerns. I hope that you are doing well at
11 this time." Is that right?

12 A. Yes.

13 Q. And then let's turn back to city-23, please. Oh, am I
14 correct, there was an e-mail that you sent in response on
15 September 3rd, 2020?

16 (Defendant's Exhibit-23 previously marked for
17 identification)

18 A. Yes.

19 Q. And would you just read that at the bottom of the page?

20 A. Are we on Exhibit-23?

21 Q. Page 23 at the very bottom of the page, the email you
22 sent.

23 A. Not -- okay. "Please give me a call because I do not
24 understand. Carla Cain."

25 Q. And then you gave your phone number, correct?

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1 A. Yes.

2 Q. And then, am I right, as we go up the page that there was
3 an email also on that date at 10:33 a.m. where Mr. Goins
4 wrote to you, "I will call later this morning if that works
5 for you from my Google voice number," then he gives the
6 number. "Committee members from the 22nd democratic ward
7 submitted an RCO registration in August with two new contacts
8 and the ward leader's signature," {in parentheses} (both
9 attached). "As the 22nd ward RCO was already active with you
10 as primary contact, we are treating the new registration as a
11 request to change contact information for the RCO. When we
12 receive requests to change RCO information from someone other
13 than the primary contact, we reach out to the primary contact
14 to confirm. If the primary contact doesn't respond or
15 contests the request for changes, we'll reach out for
16 organizational leadership, in this case the ward leader for
17 confirmation. We're taking the ward leader's signature on
18 the recently submitted registration as confirmation of the
19 request to change information in this case. Happy to answer
20 any questions as best I can by phone, Jonathan." And then am
21 I right that you responded to that email at 10:53 a.m.
22 saying, "Anytime will work for me. I look forward to hearing
23 from you." Correct?

24 A. Uhm-hum.

25 Q. So at that time in September of 2020, did you have a

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1 conversation with Mr. Goins about what was going on with this
2 new application?

3 A. Correct.

4 Q. And what was the nature of that conversation?

5 A. Basically at the request of the ward leader -- I mean,
6 the councilwoman, Ms. Bass, she would like to remove me from
7 the RCO.

8 Q. And did he indicate whether that would in fact happen
9 then in 2020, you would be removed?

10 A. He -- oh, what basically what he said, he said that she's
11 pressuring, you know, for my removal.

12 Q. Okay. Now to the best of your understanding, were you
13 removed from that role in 2020?

14 A. I was removed in 2020, yes.

15 Q. Okay, and was there a point when you were reinstated?

16 A. Then I was reinstated back again.

17 Q. Okay. And how did you become aware of that?

18 A. Through emails. Through a email.

19 Q. Let me ask you now to turn back to city documents 22 and
20 21.

21 A. 22 --

22 Q. And do you see there is an email from you dated September
23 23rd, 2020 -- I'm on page city-21.

24 A. You're on 21 now, okay.

25 Q. Yes.

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1 A. Okay, I see.

2 Q. And did you write, "Hi, Jonathan. I will not accept or
3 acknowledge this change until the below is addressed. 1)
4 What is the policy and/or legal jurisdiction that allows for
5 the removal of the head of an RCO? Please advise and share
6 the documentation that supports this. 2) What is the
7 procedure to file an appeal on being removed as an RCO head?
8 Please respond at your earliest convenience." You sent that
9 to Mr. Goins, correct?

10 A. Yes.

11 Q. And there are numerous people listed as also receiving
12 that, correct?

13 A. Correct.

14 Q. And let me ask you about that bullet point 2 first. Did
15 Mr. Goins ever explain to you any procedure to file an appeal
16 on being removed as the RCO head?

17 A. No.

18 Q. Okay, and then point #1, you had asked about {quote}
19 "policy and/or legal jurisdiction" {unquote}, allowing for
20 the removal of the head of an RCO. Did he ever give you an
21 answer to that?

22 A. No.

23 Q. So to the best of your knowledge, at this point you were
24 then taken out of the position?

25 A. Correct.

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1 Q. And then it's been alluded to in prior testimony, but am
2 I correct -- Joint Exhibit-5, if you would turn to that just
3 for a minute.

4 (Joint Exhibit-5 previously marked for identification)

5 A. So go to 5 in this book?

6 Q. In the front of the book.

7 A. Front of the book, okay.

8 Q. Tab 5.

9 A. Okay, I'm on 5.

10 Q. And am I correct, this is the renewal application you
11 submitted in 2021?

12 A. Correct.

13 Q. And after this was submitted, did you have an
14 understanding as to whether you were recognized by the city
15 as the primary contact at that point?

16 A. Yes.

17 Q. And let me clarify. Did you understand you were in fact
18 the primary contact then?

19 A. Yes, I was the -- yes.

20 Q. Let me ask you, please, to now turn back to city, which
21 is tab 12, and I'd like to look at pages 119 to 123. They're
22 at the end of that page, that Exhibit-12.

23 A. 119? You said 19, right?

24 Q. 119. Because it's in reverse order it actually begins at
25 the back, 123, and then moves forward in time.

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1 A. Okay.

2 Q. Let's look at page 120 specifically. Page 120 at the
3 bottom has an email that's been previously referred to,
4 indicating Christine Foster would be the new 22nd Ward
5 Democratic Committee primary contact, but there is an email
6 here from you dated September 24th, 2021, 1:07 p.m., do you
7 see that?

8 A. Now you're on Exhibit-12 --

9 Q. Yeah, I'm on --

10 A. -- page 20?

11 Q. Page 120.

12 A. 120.

13 Q. Let me know when you have it.

14 A. Oh, yeah. Okay, I'm on page 120.

15 Q. All right, and do you see, it's a little bit below the
16 midway mark on the page, an email from you September 24th,
17 2021, at 1:07 p.m.?

18 A. Yes.

19 Q. And that was sent to RCO notification, would that have
20 been Jonathan Goins?

21 A. Yes.

22 Q. And am I correct that at that time you wrote, "I am
23 appealing this notice and would like to inform you that
24 Christine Foster is not the RCO lead for the district. I'd
25 like a full investigation of this, since this is an outcome

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1 of ongoing harassment," correct?

2 A. Correct, yes.

3 Q. And then the next email, which is at the top of that page
4 120, you see the language, "Good afternoon, Carla. I
5 forwarded your email to Philadelphia City Planning Commission
6 for review so that we can resolve this issue. Please bear
7 with us as we work this out. I will keep you updated. In
8 the meantime, if you have any questions, please feel free to
9 contact me any time. Thank you." Was that something you
10 wrote Jonathan Goins?

11 A. Yes.

12 Q. And then let's now turn back to page 119. At the bottom
13 of the page there's an email from you September 26th, 2021,
14 6:59 p.m. You said to Mr. Goins, "Thank you, as this is
15 being reviewed, I'd like to keep my RCO duties." Correct?

16 A. Yes.

17 Q. And then at the top of this page 119 there's an email
18 from Mr. Goins back to you September 27th, the next day,
19 10:13 a.m., and he says, "Subject: You are the RCO!
20 {exclamation point}.

21 A. Uhm-hum.

22 Q. Yes?

23 A. Yes.

24 Q. And then it says, "Good morning, Carla. You will remain
25 the primary RCO for the 22nd Ward Democratic Committee.

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1 Thank you so much for your patience and I apologize for the
2 confusion and inconvenience."

3 A. Yes.

4 Q. So that was as late as September 27th, 2021, correct?

5 A. Yes.

6 Q. So when did you become aware after that time that you
7 were no longer recognized for the second time as the primary
8 contact?

9 A. It was after September, I'm trying to think. I don't
10 recall the exact date when I was finally terminated, I guess.

11 Q. Was it in the fall?

12 A. It was in the fall.

13 Q. An individual by the name of Eleanor Sharpe has been
14 mentioned in testimony. Did you ever communicate with Ms.
15 Sharpe?

16 A. Yes, one time.

17 Q. And do you recall when that was?

18 A. That was the time that they reinstated me.

19 Q. So would that have been after your renewal application?

20 A. That was after renewal, yes.

21 Q. Okay. And what was the nature of your conversation?

22 A. Basically that I'm being reinstated because they don't
23 really have a grounds on terminating me.

24 Q. Okay. Now you heard councilperson Bass's testimony that
25 she has authority as the democratic ward leader to designate

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1 the primary contact person for the RCO you formed, correct?

2 A. Yes.

3 Q. Are you aware of any bylaw or rule that has been adopted
4 either by the 22nd Ward Democratic RCO or by the city
5 democratic party or the state democratic party that vests
6 that authority in the ward leader?

7 A. I'm not aware of any of those rules.

8 Q. And so if you're not aware, does that also mean you're
9 not aware whether that authority would have been delegated
10 elsewhere to a committee or anything like that? To the best
11 of your knowledge, is there any rule?

12 A. To the best of my knowledge, I never heard of any rule
13 that exists like that, and when asked to the RCO, they
14 couldn't substantiate anything in writing that a rule like
15 that actually pertains to a RCO.

16 Q. Okay. Thank you.

17 MR. MARTIN: Nothing else on direct, Your Honor.

18 CROSS EXAMINATION

19 BY MR. D. SMITH:

20 Q. Turn if you would to joint exhibit #2, that's tab 2 in
21 that notebook.

22 A. The beginning of the book now.

23 Q. Joint exhibits. Have you found it?

24 A. I -- yes. 2 starts with 008?

25 Q. Yes.

- 1 A. Okay, yes.
- 2 Q. Joint Exhibit-2 is the application you submitted on June
- 3 15, 2019, is that correct?
- 4 A. Yes.
- 5 Q. Okay, and the organization's name that you registered at
- 6 that time was 22nd Ward Democratic Committee. Have I read
- 7 that correctly?
- 8 A. Yes, correct.
- 9 Q. Did you form the 22nd Ward Democratic Committee?
- 10 A. Yes.
- 11 Q. You formed the democratic committee? When was the 22nd
- 12 Ward Democratic Committee formed?
- 13 A. Well, not -- the RCO? The --
- 14 Q. No, when was the 22nd Ward Democratic Committee formed?
- 15 A. No, I didn't form the 22nd Ward Democratic Committee.
- 16 Q. That's correct.
- 17 A. No.
- 18 Q. Now turning then to -- back to tab 12, which you were
- 19 reviewing with your counsel --
- 20 A. Go back to 12?
- 21 Q. 12, please. The page -- turn to page -- the page marked
- 22 City-25.
- 23 A. Okay, I'm trying to get to 12 now.
- 24 Q. You have that?
- 25 A. I'm on page 12 -- I'm --

1 Q. So you were made aware by the RCO staff, the city staff,
2 on August 20, 2020, of a dispute between you and ward leader
3 Bass over who would represent the 22nd ward with respect to
4 the RCO, is that right?

5 A. Yes.

6 Q. Okay. And you were aware of that dispute throughout the
7 time -- throughout 2020 and 2021, is that right?

8 A. Yes.

9 Q. Okay. Let's turn, if we can, to your renewal
10 application, which is joint Exhibit-5. That's tab 5 in the
11 notebook.

12 A. Go back to tab 5 now?

13 Q. Five. 5, please. Is tab 5 the renewal application that
14 you submitted on or about June 3, 2021?

15 A. Yes.

16 Q. Okay. And at that time you were aware that there was a
17 dispute between you and ward leader Bass regarding who would
18 be the contact person for the 22nd ward -- democratic ward,
19 is that right?

20 A. Yes.

21 Q. Okay. Now when you submitted this application, you
22 identified the organization type as ward committee, is that
23 right?

24 A. Yes.

25 Q. And just to be clear, when you first registered the 22nd

1 ward democratic committee through the RCO process, you did
2 not create a statement of purpose, is that right?

3 A. No.

4 Q. You did not create bylaws?

5 A. No.

6 Q. You -- and so here you have identified the organization
7 type as the ward committee, and that is the 22nd ward
8 democratic committee, is that right?

9 A. Correct, that's the organization, yes.

10 Q. Okay. And if you would turn to the next page, city-
11 00002, would you read the certification at the very bottom of
12 the page that you provided with your application.

13 A. I certify that I am an applicant and RCO staff on behalf
14 of a political ward and that the ward and the ward leader are
15 aware of the above authorization of this application for RCO
16 status.

17 Q. Okay, you've skipped a number of words, so let me read it
18 into the record and you can tell me if I've read it
19 correctly, okay?

20 A. Okay, I skipped -- okay.

21 Q. You certified -- "I certify that I am applying for RCO
22 status on behalf of a political ward." Have I read it
23 correctly so far?

24 A. Uhm-hum.

25 Q. Yes?

1 A. Yes, yes.

2 Q. Okay. And the political ward is the 22nd Ward Democratic
3 Committee, is that right? Is that the political ward?

4 A. Okay, yes, that's the political ward, yes.

5 Q. Okay, thank you. "And that the ward committee and ward
6 leader are aware of and have authorized this application for
7 RCO status." Have I read that correctly?

8 A. Yes.

9 Q. At the time you submitted that certification, you were
10 aware that ward leader of the 22nd Ward Democratic Committee
11 was Cindy Bass, correct?

12 A. Yes.

13 Q. And you were aware that Cindy Bass had been, at least
14 since August 20, 2020, contesting your right to serve as the
15 contact person, correct?

16 A. Yes.

17 Q. Then if we turn back to tab 12, page 24, on September 3
18 of 2020 Mr. Goins advised you that the RCO staff would be
19 moving forward with the changes to primary contact, right?

20 A. Yes.

21 Q. All right. And then on the next page, the page before,
22 which is city-23, do you see that? The page before.

23 A. We're on 23 now?

24 Q. Page 23.

25 A. Okay.

1 Q. And that is on September 3, so it's later the same day,
2 Mr. Goins wrote to you, "When we receive requests to change
3 RCO info from someone other than the primary contact, we
4 reach out to the primary contact to confirm." Do you see
5 that?

6 A. Yes.

7 Q. Okay, and Mr. Goins had in fact reached out to you on a
8 number of occasions since the first time on August 20 of
9 2020, is that right?

10 A. Yes.

11 Q. So you were aware that the staff was looking into this,
12 correct?

13 A. Yes.

14 Q. And then it says, "If the primary contact doesn't respond
15 or contests the request for changes, we'll reach out to
16 organizational leadership, in this case the ward leader, for
17 confirmation." Do you see that? Have I read it correctly?

18 A. You are still on 23? Yes.

19 Q. Okay. And the ward leader here is Cindy Bass, is that
20 right?

21 A. Yes.

22 Q. "And we're taking the ward leader's signature on the
23 recently submitted registration as confirmation of the
24 request to change information in this case." Do you see
25 that?

1 A. Yes.

2 Q. Okay. Now is there any -- Cindy Bass has at all times
3 been the leader of the 22nd Ward Democratic Committee,
4 correct? At all times during this --

5 MR. MARTIN: No, just objection as to form.

6 MR. D. SMITH: Okay.

7 MR. MARTIN: I think it's more expansive than
8 counsel intended.

9 BY MR. D. SMITH:

10 Q. During the period of this dispute, Cindy Bass has at all
11 times been the ward leader, correct?

12 A. Yes.

13 Q. And there has never been a vote of the constituents
14 within the ward to overrule Ms. Bass's decision that she
15 prefers someone other than you to be the primary contact for
16 the ward.

17 A. I cannot answer that question because I wasn't privileged
18 to the ward meetings.

19 Q. Okay. So you're not aware of any such vote?

20 A. Correct.

21 Q. And you never asked for a vote to overrule that decision,
22 is that correct?

23 A. No.

24 Q. Is there anyone within the structure of the 22nd Ward
25 Democratic Committee with greater authority than Ms. Bass

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1 who's the ward leader? Is there a position above hers? Do
2 you understand the question?

3 A. You have -- can you explain that --

4 Q. Sure. As the ward leader, she's the senior executive of
5 the ward, is that right?

6 A. Correct.

7 Q. Okay. There is no position above hers?

8 A. As a ward, as a council --

9 Q. Right, as a ward.

10 A. No.

11 Q. Okay.

12 MR. D. SMITH: No further questions.

13 MR. MARTIN: Ms. Cain, when you say --

14 MR. D. SMITH: Wait, wait, wait --

15 MR. R. SMITH: I have a few questions.

16 MR. MARTIN: Oh, I apologize.

17 MR. RYAN: No, that's all right. If I may, Your
18 Honor, I'll try not to be redundant, but just a few.

19 CROSS EXAMINATION

20 BY MR. R. SMITH:

21 Q. Good morning, Ms. Cain.

22 A. Good morning.

23 Q. I'm Ryan Smith, I represent the city defendant in this
24 case.

25 A. Thank you, okay.

1 Q. You said that you spoke with Eleanor Sharpe about this
2 issue?

3 A. Yes.

4 Q. Do you recall when that was?

5 A. No, I don't recall.

6 Q. Do you recall the contents of that conversation?

7 A. You said a contact?

8 Q. The contents of the conversation.

9 A. Oh, yes.

10 Q. Do you recall what you talked about?

11 A. Yes, yes, yes, yes.

12 Q. You testified that Eleanor Sharpe told you that there
13 were no grounds to remove you, do I have that right?

14 A. Correct, yes.

15 Q. Okay. Do you recall having your deposition taken in this
16 case?

17 A. No, I don't recall the deposition.

18 Q. Do you remember when you met with -- I wasn't there,
19 actually, I was out with COVID --

20 A. Yeah.

21 Q. -- but you met with my colleague and Mr. Smith and they
22 asked you questions under oath?

23 A. Yes, I do recall that.

24 Q. Do you recall that Mr. Smith and Mr. McGrath asked you
25 about whether you had spoken with Eleanor Sharpe?

1 A. Yes.

2 Q. Do you remember what you said then?

3 A. No, I do not recall.

4 MR. R. SMITH: May I approach the witness, Your
5 Honor?

6 THE COURT: What page number are you referring to?

7 A. Is it big enough that I can see it?

8 MR. R. SMITH: I'm on -- Your Honor, it's deposition
9 transcript 42, and I'm going to -- 42 and 43. Would you like
10 a copy?

11 THE COURT: No, thank you.

12 MR. R. SMITH: Okay.

13 BY MR. R. SMITH:

14 Q. Do you recognize that? Is that the notice of your
15 deposition?

16 A. Yes, this is the notice.

17 Q. Okay. I'm going to show you a page from that deposition.
18 We're looking here at 42.

19 A. 42.

20 Q. Yep, at the very bottom, and then we're going to go over
21 to the top of 43. The question was, "Did you have any
22 conversations with Eleanor Sharpe?" And what was your
23 response?

24 A. I said I don't recall.

25 Q. Okay.

- 1 A. Okay.
- 2 Q. But now you recall the contents of that conversation?
- 3 A. Yes, yes.
- 4 Q. Okay. Did you speak with Mr. Goins?
- 5 A. I have spoken to Mr. Goins, yes.
- 6 Q. When you spoke with Eleanor Sharpe and when you spoke
7 with Mr. Goins, you didn't discuss your political views, did
8 you?
- 9 A. No.
- 10 Q. You discussed the RCO primary contact issue.
- 11 A. Correct.
- 12 Q. No one from the city told you that you couldn't attend a
13 zoning board meeting, did they?
- 14 A. No.
- 15 Q. No one from the city told you that you couldn't attend an
16 RCO meeting, did they?
- 17 A. No.
- 18 Q. Did any city employee tell you that you couldn't form
19 your own organization and register it as an RCO?
- 20 A. No, that wasn't discussed.
- 21 Q. You allege in this case that the city retaliated against
22 you for expressing your first amendment views. What is the
23 basis of that claim?
- 24 A. Deprived me of due process.
- 25 Q. Okay, but first I'm asking you about your first amendment

1 claim.

2 A. Yes.

3 Q. About your political activity.

4 THE COURT: She answered your question.

5 MR. R. SMITH: Very well.

6 THE COURT: I mean, are you going to go through a
7 review of the law with a witness who's not a lawyer, and my
8 question is she answered, due process. They deprived me of
9 my due process. That's her answer.

10 MR. R. SMITH: Understood, Your Honor. Thank you.

11 THE COURT: I mean, you can follow up on that if you
12 want, but --

13 MR. R. SMITH: No, nothing further. Thank you.

14 MR. MARTIN: May I, Your Honor?

15 THE COURT: Yes.

16 MR. MARTIN: Thank you.

17 REDIRECT EXAMINATION

18 BY MR. MARTIN:

19 Q. Ms. Cain, these applications, your original application
20 and your renewal application, did you submit that in paper
21 form or electronically?

22 A. Electronic form.

23 Q. And to the best of your recollection when you were
24 submitting that, was there an option of not answering any
25 questions?

Cain - Redirect

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1 A. There's no options not to answer any questions.

2 Q. Okay, so if a question is not answered, you can't move
3 forward.

4 A. It cannot move forward, correct.

5 Q. Okay. And you were asked a question by counsel for
6 councilperson Bass about the statement, and this appears at
7 the bottom of city page 2 in Exhibit-12.

8 A. So go to Exhibit-2, go all the way back to the part --

9 Q. No, go to Exhibit-12, at the --

10 A. 12.

11 Q. -- back of the binder.

12 A. 12, okay. And number 2?

13 Q. Page 2, it's city-2.

14 A. City-2, uhm-hum.

15 Q. That sentence at the very bottom with the certification
16 saying I certify that I'm applying for RCO status on behalf
17 of a political ward and that the ward committee and ward
18 leader are aware of and have authorized this application for
19 RCO status, what was your understanding of that when you
20 applied for the renewal?

21 A. Because I was a part of the -- and presently, a part of
22 the 22nd ward, and I was the first vice chair of the ward, so
23 I have been active and demonstratively active, and so it
24 pertained to me that I was answering it correctly.

25 Q. Okay. Now this certification actually says ward

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1 committee and ward leader.

2 A. Correct.

3 Q. Are you aware of Ms. Bass ever getting the ward committee
4 behind her on the application submitted by Christine Foster?

5 A. No, I have no knowledge of that.

6 Q. So as far as you know, the ward committee never approved
7 the application made at Ms. Bass's request, correct?

8 MR. D. SMITH: Objection.

9 A. Correct.

10 THE COURT: Sustained. You can rephrase it if you
11 like. It was leading.

12 BY MR. MARTIN:

13 Q. I believe you testified that you were not aware, am I
14 right, of the ward committee ever voting to -- am I correct,
15 your testimony is you're not aware of the ward committee ever
16 voting with respect to approving the Christine Foster
17 application?

18 MR. D. SMITH: Objection.

19 A. No, I'm not, I was not aware of it.

20 THE COURT: Sustained. I remember the testimony.

21 MR. MARTIN: All right.

22 BY MR. MARTIN:

23 Q. You made a comment in your question in cross examination
24 about not being privileged, I think was the word you used, to
25 attend committee meetings. What were you referring to when

1 you said that?

2 MR. D. SMITH: Objection.

3 THE COURT: Overruled. I forget how it came out,
4 but go ahead, you can answer it.

5 A. I was not allowed to attend any of the 22nd ward monthly
6 meetings, via Zoom or in person.

7 Q. And during what time period were you not allowed to?

8 A. Oooh, that was --

9 MR. D. SMITH: Your Honor, again, this has nothing
10 to do with the RCO.

11 THE COURT: Overruled. But there's no foundation
12 for this. Not allowed to attend? Who said she couldn't
13 attend?

14 MR. MARTIN: That's what I was getting to.

15 THE COURT: Did you -- all right, go ahead.

16 MR. MARTIN: Yep.

17 BY MR. MARTIN:

18 Q. Did someone tell you you were not able to attend the
19 committee meetings?

20 A. We were -- it was during COVID and we were denied access
21 to any of the Zoom meetings.

22 Q. When you say we, are you referring --

23 THE COURT: And are we relitigating something?

24 A. Yes.

25 MR. MARTIN: No. Your Honor, I can let that go.

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1 And I don't have anything else, Your Honor, on redirect.

2 THE COURT: All right. You can step down, thank
3 you. You can step down. Thank you.

4 MS. CAIN: Okay.

5 MR. CARNES: May Mr. Goins be called as on cross-
6 examination?

7 THE COURT: Who?

8 MR. CARNES: Mr. Goins, Jonathan.

9 THE COURT: And what is the -- because we've been
10 through all the -- how long are you going to be and --

11 MR. CARNES: I don't think it's going to be very
12 long, Your Honor. Mr. Goins prepared a memo that kind of
13 breaks down how it all went, and he provides clarity in terms
14 of what the -- you know, what the records and planning
15 commission are.

16 THE COURT: All right, okay.

17 JONATHAN GOINS, PLAINTIFF'S WITNESS, SWORN

18 THE CLERK: Thank you very much. You can be seated,
19 and if you could, could you state your full name and spell
20 your last name.

21 MR. GOINS: My full name is Jonathan Cottingham
22 Goins, last name is G-O-I-N-S.

23 THE CLERK: Thank you very much.

24 DIRECT EXAMINATION

25 BY MR. CARNES:

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1 Q. Mr. Goins, thank you for coming. I just have a few
2 questions for you. First of all, could you identify your
3 position with the city?

4 A. Yeah, so for the last four years I've been a city planner
5 with the Division of Planning and Zoning, within the
6 department of planning and development. I also serve in a
7 role as the RCO coordinator with the department.

8 Q. Okay. And you are the person who initially received the
9 June 15th, 2019 registration from Carla Cain to register the
10 22nd Ward Democratic Committee RCO, is that correct?

11 A. Yes, that's correct.

12 Q. And when that was received, was there any communication
13 between you and Carla Cain?

14 A. No, not apart from the actual registration form itself.

15 Q. Okay. And after that was received, it was then approved
16 and put on a list that the city would maintain of registered
17 RCOs, is that correct?

18 A. That's correct.

19 Q. Okay. And did you subsequently receive a comment from
20 Cindy Bass's chief of council staff member, Mr. Metozo, about
21 that?

22 A. Yes, I did.

23 Q. And what was -- what did he state?

24 A. So we had a phone conversation; I do not remember the
25 exact words of that conversation, but he expressed to me that

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1 he was surprised that the registration had been submitted on
2 behalf of the 22nd ward and something, you know, to the
3 effect that it hadn't been authorized or that it had been a
4 surprise to himself and to council member Bass.

5 Q. And he was calling from councilwoman Bass's office,
6 correct?

7 A. That is how I knew him, as a council staffer, yes.

8 Q. Okay, now that -- if it -- would that sound like that
9 happened in -- if you would, turn to City-4, it's in Exhibit-
10 12. I believe that's a summary that you prepared to assist
11 you in reviewing the circumstances. Do you see that, city-4,
12 in front of you?

13 (Defendant's Exhibit-4 previously marked for
14 identification)

15 A. I do.

16 Q. Okay. So when Mr. Metozo contacted you, was that
17 sometime like in September of 2019, does that sound about
18 right?

19 A. That sounds about right, yes. I know it was 2019.

20 Q. Was there any action taken between September of '19 and
21 say August of 2020?

22 A. No action regarding the status of the RCO or Ms. Cain's
23 status as the primary contact, no.

24 Q. And so that means that if an application came before the
25 ZAB in the 22nd ward the -- which is the same as the 19119

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1 zip code, that should have gone to her?

2 A. Yeah, those notifications would go to whoever was listed
3 as the primary contact for that RCO and she was listed as
4 that primary contact.

5 Q. Okay. And just so I understand, when is the period for
6 approval and renewal?

7 A. Yes, every year in June we accept RCO renewals and
8 registrations. An RCO status is good for two years, so an
9 Rco registered, you know, in June of this year, two years
10 from now in June they would -- it would renew.

11 Q. Okay, and what happens if somebody has applied and makes
12 an application in September or some other time?

13 A. We wouldn't accept an application outside of that
14 registration period.

15 Q. Okay, so then in 2020 you get an application from
16 Christine Foster for the 22nd Ward Democratic Committee RCO,
17 is that correct?

18 A. That's correct.

19 Q. And was there any discussion you had with anybody at
20 councilwoman Bass's staff or otherwise, prior to that
21 application being submitted on August 13th of 2020?

22 A. I don't recall any conversation with anyone in council
23 member Bass's office regarding that application specifically
24 prior to that time.

25 Q. Okay, and we saw as your note indicates there was a ward

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1 leader cert attached which had the signature of C. Bass, is
2 that correct?

3 A. That's correct.

4 Q. Okay. So according to this, you are going to treat that
5 as a change in contact information, and you follow that
6 procedure because under your regulations you have to contact
7 the primary RCO to see if that person -- primary contact to
8 see if that person agrees and so forth, correct?

9 A. I believe the language is that we're to reach out to the
10 existing primary contact to confirm the request that has been
11 made, so we did follow that procedure.

12 Q. And ultimately that confirmation was not received from
13 Carla Cain, correct?

14 A. Carla Cain at that time contested the change and
15 maintained that she should remain the primary contact for the
16 RCO.

17 Q: Was she told that she had been removed from the RCO at
18 one point in time?

19 A. It was communicated to her at that time that we were
20 following the procedure and we were looking to confirm. I
21 don't believe myself or anyone communicated to her that she
22 was removed because we did not remove her as the primary
23 contact at that time.

24 Q. So she was not removed in 2020?

25 A. Correct.

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1 Q. So even though there was a certification by the ward
2 leader attached to her application, that was not treated as
3 sufficient to change the status of the primary contact?

4 A. That's correct.

5 Q. And do you know that that information was ever
6 communicated to Carla Cain?

7 A. I don't know beyond the email communication that, you
8 know, we had received this request, and do not think that it
9 was ever expressly communicated to Ms. Cain that we had not
10 changed the contact information.

11 Q. Now we went through a variety of emails that took place
12 in September of 2021, because in September 20th, I believe,
13 of 2021, there was an application made for the property
14 identified as 244 East Springer Street in the Mount Airy
15 section of the city, do you remember that?

16 A. I'm familiar with the email exchange --

17 Q. Okay.

18 A. -- about that property, yes.

19 Q. Now you immediately received comments from the
20 councilwoman's office about that, correct?

21 A. Sometime after the notification communication went out
22 for that property. I don't know the timeline, but we did
23 receive communication from the council office.

24 Q. And Mr. Richardson believed that the certification that
25 was attached to the application that was untimely filed in

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1 August of 2020 somehow corrected and changed the primary
2 contact for the 22nd ward RCO, is that correct?

3 MR. D. SMITH: Objection as to Mr. Richardson's
4 belief.

5 THE COURT: Pardon me?

6 MR. D. SMITH: Objection as to the question
7 regarding Mr. Richardson's belief.

8 THE COURT: Sustained. It's a question as to
9 foundation.

10 MR. CARNES: Okay.

11 THE COURT: He's objecting to your foundation --

12 MR. CARNES: Okay.

13 THE COURT: -- for the belief.

14 BY MR. CARNES:

15 Q. Was there communication between yourself and Mr.
16 Richardson, one of the staff members of Cindy Bass?

17 A. Yes.

18 Q. And did Mr. Richardson in one of those communications
19 express his belief that the certification attached to the
20 untimely 2020 application of Christine Foster as the primary
21 contact had been rejected?

22 MR. D. SMITH: Objection as to, again, belief and
23 untimely.

24 THE COURT: Overruled.

25 BY MR. CARNES:

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1 Q. You can answer.

2 A. Yes, in my reading of his email correspondence, he did
3 seem to be under the belief that the contact information was
4 changed or should have been changed in 2020.

5 Q. And it had not been changed?

6 A. It had not.

7 Q. Okay. And is it -- it is your -- is it your position
8 that the councilperson cannot change the primary contact of
9 an RCO?

10 A. Yes, that's my position.

11 Q. And that's the position of the planning commission?

12 A. I don't know that I'm authorized to speak for the
13 planning commission on a whole, but I would say there's no --
14 nothing within our -- the zoning code or the regulations of
15 the planning that, you know, provide any procedure in where a
16 councilperson could change the -- you know, the contact
17 information for an RCO.

18 Q. Now as of 2021 when the 224 East Springer Street project
19 came up, there were objections and there's a letter that's
20 been presented on October 13th, signed by Cindy Bass in her
21 capacity as ward leader, requesting that the primary contact
22 be changed from Carla Cain to Christine Foster. Are you
23 aware of that letter?

24 A. Yes, I am.

25 Q. Okay. And am I correct in understanding that based upon

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1 that communication a change took place?

2 A. That's correct.

3 Q. Okay. And when that change took place, what was -- what
4 specific provision in the regulations did you utilize to
5 determine that you were authorized to take such action?

6 A. So to my knowledge there isn't any -- a specific
7 provision in our regulations or the zoning code that
8 addresses this specific situation where there's a -- someone
9 contests a change to the primary contact. However, we acted
10 based on our best understanding of our authority and past
11 practice that we had done in similar situations.

12 Q. And can you tell me a situation or past practice
13 involving an RCO -- a ward leader RCO where there was a
14 change such as this made?

15 A. Yeah. At the same time in 2019 for that same
16 registration period when we received the 22nd ward
17 application, we received a ward application from the 13th
18 ward and very similarly the ward leader for that ward,
19 shortly after the registration was submitted, reached out to
20 express that he had not authorized -- he in this case had not
21 authorized the application, asked that he himself be named as
22 the primary contact, and in that case we had some internal
23 discussion, hadn't had that particular situation before. We
24 decided we would, as we did here, reach out to the existing
25 primary. They objected. We then asked from that ward that

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1 we get something in writing from the ward leader making an
2 explicit request to change that information, and when we
3 received that, we did make that change.

4 Q. Now you just said the 13th ward, but am I -- I seem to
5 remember, and I haven't got it memorized, but you believe,
6 you've testified it was the 12th ward.

7 A. I think I mis-stated. It was the 12th ward.

8 Q. Okay.

9 A. I'm sorry --

10 Q. It was the 12th ward.

11 A. -- we have a lot of ward RCOs.

12 Q. And again, that's within Cindy Bass's district, correct?

13 A. That is within the eighth council district, yes.

14 Q. And in that case, in 2019, you received a letter from the
15 ward leader who wanted to put himself in that position?

16 A. That's correct.

17 Q. Did you receive any minutes or anything else from the
18 ward leader to support his position?

19 A. Yeah, I do not recall if we had any other documentation
20 at the time. But my recollection -- I don't have a record of
21 it -- is that he submitted a letter as ward leader making
22 that request.

23 Q. Was there any protest or concern about due process by the
24 party who had submitted the application and was the primary
25 contact for that RCO?

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1 A. I do not recall if we got any correspondence after that
2 change was made from the previous primary contact for the
3 ward.

4 Q. But in 2019 you did not receive a letter from the ward
5 leader to support the change that was made in August of 2020.
6 In 2020 you did not receive a letter from the ward leader?

7 MR. D. SMITH: Objection to form.

8 A. Could you please restate that? Sorry.

9 BY MR. CARNES:

10 Q. You referred to this procedure in 2019, but I think we
11 established previously that the application for
12 reconsideration -- application for a 22nd Ward Democratic
13 Committee RCO was treated as a change of status that was
14 received in August of 2020.

15 A. That's correct. The application we received in 2020 was
16 not treated as a new application or renewal because their
17 eligibility period hadn't expired yet. So in 2019, the 22nd
18 ward applied. In 2020 they still had another year left on
19 their registration, so we didn't treat it as a new
20 application or renewal.

21 Q. And in that situation, the ward leader of the 22nd ward
22 did not supply the letter similar to the one supplied at the
23 12th ward.

24 A. That's correct. We did have a signed certification form
25 authorizing the application, but not an explicit request to

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1 change the contact information.

2 Q. And let me just ask you, on that situation in the 12th
3 ward, is that how it was approached there as well? Did the
4 new proposed primary contact submit an untimely -- I mean
5 outside of the time period -- application and suggest that
6 their name should be there and was certified by the ward
7 leader? Is that how it was presented there, too?

8 MR. CARNES: Objection to the characterization of
9 sometimes they are.

10 THE COURT: Overruled.

11 A. So no, in 2020 we did not receive an untimely renewal
12 application from the 12th ward.

13 BY MR. CARNES:

14 Q. But in 2019 was there -- how did -- how was that
15 presented to you? Was it a new application?

16 A. It was just presented as per our regulations, it is
17 required they request in writing to the executive director to
18 change information -- contact information, for the RCO.

19 Q. Now, in terms of the regulations that you're talking
20 about, can you point to which one that was relied upon? It's
21 exhibits, we have three sets of them, but I think we're
22 working off of Exhibit-11, which is the most recent
23 promulgation of the planning commission rules effective
24 November 22nd, '21, with a change that was promulgated
25 October 22, 2021, Can you point in that document under

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1 Chapter 12 dealing with RCOs, what authorized this change of
2 primary contact for the 22nd Ward Democratic Committee RCO?

3 (Defendant's Exhibit-11 previously marked for
4 identification)

5 A. Yes, if we look at page 41 within the regulations, 12.3.4

6 --

7 Q. Okay.

8 A. -- it states that updates and corrections, an RCO may
9 submit a written request of the executive director to correct
10 or update its registration information at any time. This
11 request shall be submitted or verified by the primary contact
12 person as listed in the RCO's current registration, unless
13 the primary contact is unavailable due to death, medical
14 conditions or other exceptional circumstances. The executive
15 director may request additional documentation to verify any
16 modification to an RCO's registration information. So the
17 written request that was what we requested and got in both of
18 the cases I referenced, that's that -- is from this section
19 of the regulation.

20 Q. So the executive director in this case is Eleanor Sharpe,
21 right?

22 A. That's correct, yes.

23 Q. So did Eleanor Sharpe write a letter to request
24 additional information in August of 2020 from the person
25 making the request to modify?

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1 A. Yeah, so my reading of the regulation doesn't require a
2 letter, but I did request a letter on her behalf and with her
3 authorization, so requested something in writing from the
4 ward leader.

5 Q. In August of 2020?

6 A. In -- which ward application are we referring to?

7 Q. We're talking about the initial application, because
8 there was a challenge to that in August of 2020.

9 A. In August of 2020 a challenge to which application?

10 Q. To the June 20 -- the June 15th, 2019 application.

11 A. So there's a 2019 application, and then another
12 registration submitted in 2020 listing Ms. Foster, and then
13 there was a conversation in 2020 that I had expressing that
14 request for a letter from the ward leader, explicitly
15 requesting the change in contact information.

16 Q. Okay, and that was never supplied?

17 A. It was not supplied in 2020. We did ultimately receive
18 it in 2021 when we made the change.

19 Q. And who did you have that conversation with regarding
20 that -- the requested submittal?

21 A. I had that conversation with council member Best.

22 Q. And let's go back to the prior exhibit, Exhibit-10. Do
23 you see that? That has amendments incorporated through
24 November of 2019.

25 (Defendant's Exhibit-10 previously marked for

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1 identification)

2 A. Yes.

3 Q. Okay, let's turn to the same section, 12.3.4, and I ask
4 you to show me where the change was in these regulations.

5 Isn't this the exact same regulation that existed at that
6 point in time as well?

7 A. Yes, it is the same. There wasn't any change to this
8 section.

9 Q. So any comments that were made about changing the
10 regulations to address the circumstance did not apply?

11 MR. MARTIN: Objection, Your Honor.

12 THE COURT: Overruled.

13 A. Yeah, there were no changes to the regulations to
14 explicitly address the situation here where we've got a
15 contest -- someone contests the change in primary contact
16 information. We did amend the regulations to require a ward
17 leader certification, essentially an RCO leadership
18 certification on applications when they're submitted or
19 renewed to try to avoid situations similar to this in the
20 future.

21 BY MR. CARNES:

22 Q. And that change that you've just referenced was not made
23 until somewhere else in Exhibit-12, which is -- I mean
24 Exhibit-11, which is the regulations in effect on November
25 22nd, 2021, correct?

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1 A. Correct, that change was not made until fall of 2021.

2 Q. And that would be after the October 13th letter from
3 councilwoman bass as ward leader, essentially removing Cindy
4 Cain -- Carla Cain, excuse me.

5 A. After we received that letter and made the change, yes.

6 Q. And that -- how was that done? How was that change made?
7 It wasn't a change in a zoning ordinance, I was just a change
8 in the regulation right?

9 A. Yeah, it's a regulation change. Those are presented to
10 the planning -- full planning commission and if approved by
11 them, those changes take place after a public comment period.
12 I'm not sure how long that is, but once that period expires,
13 the regulations go into effect.

14 Q. And were you aware of any --

15 MR. CARNES: May I approach?

16 MR. D. SMITH: May I see what it is, counsel?

17 MR. CARNES: Yeah. Oh, yeah, sorry.

18 MR. D. SMITH: Thank you.

19 BY MR. CARNES:

20 Q. I have some exhibits that were discussed at the -- at
21 Carla Cain's deposition, and I'm asking you if you -- looking
22 at Exhibit-P6, which is a series of zoning board and
23 adjustment appeals calendar from June 16th of 2021 through
24 September 14th of 2022, is that a record that could be drawn
25 down from your records?

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1 A. Yes.

2 Q. Okay, and do you see on there reference to a 7/19/22
3 application for 225 East Springer Street?

4 A. Yes, I do.

5 Q. And that's a ZP2021 schedule?

6 A. Correct.

7 Q. Okay, and on this there are, you know, a number of
8 applications that were going before the zoning and hearing
9 board, you know, some 20 or so, do you agree?

10 A. Correct.

11 Q. And with respect to 225 East Springer Street, is that --
12 that was scheduled for a hearing when, can you tell? Was
13 that July 19th, 2022?

14 A. Yes.

15 Q. Okay, and that's the same Springer Street property that
16 was brought up in 2021 when there was a further inquiry into
17 the status of who was the primary contact for the 22nd Ward
18 Democratic Committee RCO, is that correct?

19 A. I would need to see the email to know the exact address.
20 I know there were a few Springer Street addresses there.

21 Q. Okay.

22 A. I don't recall the exact number for that email.

23 Q. All right. Turn to Exhibit-13, Bass page 12 and let me -
24 - can I take this away from you? I'm going to return it to
25 you. And I'll leave this in front of you. Exhibit-P6 with

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1 reference to the Springer Street property. Does that
2 correspond with the RCO notice that was sent out on September
3 -- I guess the first time it was sent out was September 20th,
4 2022 -- '21.

5 (Plaintiff's Exhibit-13 previously marked for
6 identification)

7 A. Yes, I do see they both read 244 East Springer Street --

8 Q. And is the --

9 A. -- and they are the same zoning permit number, yes, so
10 that would be the same permit.

11 Q. So ZP2021006922?

12 A. Correct, yeah.

13 Q. So that application that was brought forward by Vernon
14 Anastasio, that application wasn't dealt with for another
15 year, that was delayed for an entire year, is that correct?

16 MR. D. SMITH: Objection, foundation, Your Honor.

17 THE COURT: If that's your objection it's overruled.
18 Go ahead, you can answer the question.

19 A. Sure. Yes, so the initial notice was sent in September
20 of 2021, and this calendar lists a hearing in July of 2022.
21 I don't know if the case was decided in July or not --

22 Q. Okay.

23 A. -- but that's when it's listed on the calendar.

24 Q. And we -- okay. In terms of that exhibit, P-6 that
25 you're looking at, those 20 or so matters that are before the

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1 zoning hearing board, would those have all been -- as a
2 planning commission executive, so to speak, would those
3 applications, all involving zoning -- the zoning board of
4 adjustment variances and so forth, all within the 19119 zip
5 code, would they all go before the RCOs including the 22nd
6 Ward Democratic Committee RCO if they're within the 19119 zip
7 code?

8 A. So I think we discussed this at my deposition. Not exact
9 overlap with the ward boundaries and the zip code boundaries,
10 but as long as these appeals, the properties fell within the
11 22nd ward boundaries, the 22nd ward would be considered an
12 affected RCO and they would receive, you know, the
13 notification that we see in the email here.

14 Q. Were you here, did you have any communication with Carla
15 Cain regarding -- direct, on the phone, regarding the request
16 in 2020 to have her removed or later in 2021?

17 A. Yeah, so according to my notes, I did have a conversation
18 with her, and the email record says I would call her in 2020.
19 I do not remember, you know, any of the exact wording of that
20 conversation, but I do believe I did speak with her at that
21 time.

22 Q. Yeah, and the first exhibit that we looked at, the -- I
23 think it was city-4.

24 MR. MARTIN: City page 4.

25 BY MR. CARNES:

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1 Q. You have that in front of you again?

2 A. Yes.

3 Q. Okay. And when did you prepare this timeline?

4 A. It's not dated, but I believe it was typed sometime
5 earlier this year in 2022.

6 Q. And you reviewed emails and notes and so forth to prepare
7 this?

8 A. I did.

9 Q. Okay. And as you go down those notes, after the 2020
10 Foster application, you say current regs give no guidance if
11 you can't confirm change or changes contested, is that
12 correct?

13 A. That's correct.

14 Q. And you asked for something from Bass in writing in her
15 capacity as a ward leader and she agreed via phone with J.G.
16 Who's J.G.?

17 A. That's myself.

18 Q. So you spoke with her on the phone?

19 A. I believe I did, yes, according to my notes.

20 Q. And this memo doesn't say that had you received the
21 letter from her, you could make the change, does it?

22 A. It does not.

23 Q. And then 2021 in June -- I believe it was June 3rd, Carla
24 Cain applied for renewal. That went to you, right?

25 A. That's correct.

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- 1 Q. And you accepted it.
- 2 A. I did.
- 3 Q. Okay, and that's filled out online, is that right?
- 4 A. Yes.
- 5 Q. Now while Carla Cain was the primary contact for the 22nd
- 6 Ward Democratic Committee RCO, did you ever receive any
- 7 complaints regarding her behavior, or did you ever pursue any
- 8 concerns regarding her behavior and her management of the
- 9 RCO?
- 10 A. Not that I recall, no.
- 11 Q. Okay. There are procedures if an RCO gets out of line
- 12 and doesn't do his job, are there not?
- 13 A. There are, yes.
- 14 Q. And those were never brought into play?
- 15 A. Not to my recollection with the 22nd ward, no.
- 16 Q. And then you have this September 2021, Mr. Richardson of
- 17 Bass's staff notices on email that Carla Cain is still listed
- 18 as primary, and he tells you that Christine Foster is the
- 19 chair. And then Jeanine Bowers, she's at your office as
- 20 well, is that correct?
- 21 A. She was at the time a -- on staff with the zoning board,
- 22 and she was the one that was sending the RCO notification
- 23 emails.
- 24 Q. And then you got an email from Bass stating, and I could
- 25 read from your quote, I guess this comes from somewhere in

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- 1 the emails, "Thank you to everyone for working to clear this
2 matter up {period}. Just to be clear {comma}, I have been
3 working with Christina Foster regarding all RCO matters in
4 the 22nd ward. I will continue to do so and talk to Carla
5 Cain to gauge her interest regarding working with Christina
6 to have one seamless operation and end any confusion that may
7 exist -- that currently exists. Again {comma}, many thanks."
8 So that -- what did that mean? What does that quote mean?
- 9 A. That quote was taken from an email that I believe is in
10 the record from council member Bass. I won't -- I don't know
11 that I can say what it means apart from what it says.
- 12 Q. Now you spoke with Ms. Bass on the phone, is that
13 correct?
- 14 A. Excuse me?
- 15 Q. You spoke with Ms. Bass on the phone, is that correct?
- 16 A. I did definitely in 2020, yes.
- 17 Q. And did she identify herself as councilwoman Bass?
- 18 A. I do not remember how she identified herself.
- 19 Q. Did she ever identify herself as ward leader Bass?
- 20 A. Not to my recollection, no.
- 21 Q. And in fact, when you go down to September 24, 2021 email
22 from Charles Richardson in your memo, he's her staff member
23 and he's looping in councilwoman Bass, right?
- 24 A. That's what he said in the email, yes.
- 25 Q. And then you get the letter from Cindy requesting the

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1 change we make late 2021. Who's we, that's the planning
2 commission?

3 A. Yes.

4 Q. And Exhibit-5 right behind you is the letter, and that's
5 addressed to Eleanor Sharpe.

6 A. Correct.

7 Q. When did you first see that letter?

8 A. I believe it was sent via email. I can't say for sure,
9 but it's dated October 13th, so I assume it was at that time
10 or shortly thereafter.

11 Q. Now you -- when you were looking at this in 2020, you had
12 some communications with Mr. Mathis and with Ms. Foster about
13 their interest, do you remember that?

14 A. I do.

15 Q. Okay, and you reached out to them and got information
16 from them. Why didn't you do that again in 2021?

17 A. To my recollection we did, and I believe the email record
18 reflects that. But as part of our procedure, we get a -- try
19 to get a confirmation of the request from the existing
20 primary and then typically we also try to get a confirmation
21 from the proposed primary and secondary just to confirm that
22 they've accepted the role, that they understand what it
23 means, and that their email accounts are active and working.

24 Q. Well, I know you're here on behalf of the city, but we
25 have a city exhibit here in front of us and that's city

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1 Exhibit-12. I would ask you to look through that, take your
2 time if you want and try -- show me when in 2021 you
3 contacted Mr. Mathis or Ms. Foster to confirm that they still
4 wanted to be contact people.

5 A. I am not seeing it in the record before me, but my best
6 recollection is that we did do it in 2021.

7 Q. Because that's your practice or that's your procedure?

8 A. That is our typical procedure. There are times when that
9 hasn't happened, limited situations, but in general that's
10 what we do. It's not a regulation, it's something we like to
11 do to make sure we've got good contact information that we're
12 putting out for new applicants and committee members.

13 Q. Now you brought up one other example of an RCO that
14 involved a ward committee. Are there any other ward
15 committees that were involved in this sort of an inquiry?

16 A. Not any ward committees, but there are similar situations
17 that have happened with non-ward RCOs in the past.

18 Q. So with respect to this ward, you've mentioned the 12th
19 ward. There were numerous communications beginning in 2019
20 from Mr. Metozo, then from Mr. Richardson, with copies to Mr.
21 Barge and other members of staff, and direct communications
22 with the councilwoman. Did you have that sort of
23 communication on the other one, the 12th ward as well?

24 A. The 12th ward, the timeline was much shorter, but there
25 was regular communication with that ward leader over the

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1 course of the -- I believe a few months that it took to
2 resolve that situation.

3 Q. And was there any communication from Cindy Bass who was
4 the councilwoman for that 8th ward with overarching
5 responsibilities for that ward?

6 A. Not to my recollection.

7 MR. D. SMITH: Objection to form.

8 THE COURT: Overruled.

9 A. Yeah, not that I recall when it came to the 12th ward,
10 no.

11 BY MR. CARNES:

12 Q. Do you know whether Cindy Bass communicated directly with
13 Eleanor Sharpe regarding this matter?

14 A. I do not know.

15 Q. Did you advise her to put her ward leader hat on?

16 A. I believe I used that language, yes.

17 Q. And that's because everything was coming from the
18 commissioner's office, correct?

19 MR. D. SMITH: Objection.

20 MR. CARNES: Councilperson's office.

21 THE COURT: Overruled.

22 A. I said that because I knew that she had both roles, she
23 was obviously both a councilperson and a ward leader, and we
24 felt the request should come from the ward leader, or her in
25 that role.

1 BY MR. CARNES:

2 Q. Now have you had any discussions with Christine Foster
3 since October of 2021?

4 A. Not that I recall, no.

5 Q. Have you had any discussions with Cindy Bass regarding
6 this matter since 2021?

7 A. No.

8 Q. There is a procedure, is there not, under the regulations
9 such that if somebody makes application for an RCO position
10 and makes application and that application is rejected, that
11 person can make an appeal and bring that before the planning
12 commission to state their case and to try to get the
13 application approved, isn't that correct?

14 A. That's correct.

15 Q. But there is no such procedure for what happened here
16 where Carla Cain was removed.

17 A. Correct.

18 Q. And again, you said that in 2020 she, Carla Cain,
19 retained her position as primary contact, but you said you
20 don't have any direct documentation or record that proves
21 that she was told that.

22 A. That's correct. I wouldn't say it's our typical
23 procedure and we don't change contact information to, you
24 know, explicitly tell the primary contact. We maintain a
25 list of RCOs and the primary contacts online. We keep as up-

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1 to-date as we possibly can, and Ms. Cain would have still
2 been listed on that until the time that it was changed.

3 Q. Now in 2021, and after October 13th, was there any
4 communication to Ms. Cain that she had been removed?

5 A. I am not sure. Once we made the change, again, once that
6 decision is made and information is changed, not our typical
7 procedure to inform anyone that the change is going through.
8 We kind of rely on them to check the list, check the record
9 to make sure that it's correct.

10 Q. Well, when the 2020 -- when the 2 -- when the Springer
11 Street property was up for consideration and it was going to
12 go to the RCOs for review, Ms. Cain expressed her desire that
13 she be allowed to continue in the process pending that --
14 while that application was moving forward. Did that happen?

15 A. I would need to see the email that references that
16 communication from her. I don't -- I wasn't a direct
17 recipient of that and I'm not familiar with it.

18 MR. CARNES: No further questions. Thank you.

19 CROSS EXAMINATION

20 BY MR. R. SMITH:

21 Q. Good afternoon, Mr. Goins.

22 A. Good afternoon.

23 Q. Can you explain the difference between an initial
24 application for an RCO versus a change request that's made
25 later?

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- 1 A. Sure. So an initial application has certain requirements
2 that have to be listed as per the zoning code and our
3 regulations, contact information is one of them. There's
4 additional documentation that we verify to see if an RCO
5 meets, or an organization meets our criteria for RCO status.
6 A change in information, I read the regulation earlier, but
7 essentially should be something in writing from the RCO
8 requesting that change to be made, and there is some
9 procedure around that but not the same as for an application.
- 10 Q. Is it -- request for change time limited?
- 11 A. Can you explain?
- 12 Q. Is there a limited window to submit, like, an
13 application?
- 14 A. No. When it comes to request the change, I believe the
15 zoning code actually compels RCOs to update information if a
16 change happens, if there's any change in the information that
17 they submitted on their initial application, and then, you
18 know, the regulations spell out that procedure a little
19 further and say it should be written requests to the
20 executive director, but there's no limitation of when those
21 could be submitted.
- 22 Q. Is the application form the only way to request a change?
- 23 A. No, so there's no specific form for a request to change,
24 it just says that it should be something in writing. There's
25 no form that we provide to make a requested change of

1 information.

2 Q. Now you agreed when Mr. Carnes asked you if you
3 considered the ward leader certification on the 2020
4 application to be -- you agreed that it was not sufficient to
5 make a change at that time. Why was that?

6 A. I think -- so when we initially received it, you know, we
7 treated it as a request to change because we didn't know what
8 other category to put it in. But at the end of the day we
9 decided that what we wanted to have for the record was that
10 they -- a specific explicit request to change the contact
11 information, rather than us receiving an application with the
12 certification and then sort of inferring from that, that that
13 was the desire. So that is part of why the change wasn't
14 made. I'll say also in reviewing the record, I'm not sure
15 that we ever got a confirmation from Ms. Foster. As I said,
16 it is our typical procedure is to try to get that and I'm not
17 sure we actually did get it in that case, and that may have
18 also been part of why we didn't make the change at that time.
19 But ultimately we decided and requested that there should be
20 a letter, we should get a letter explicitly making that ask
21 from a board leader.

22 Q. When you receive an application for an RCO, is it an
23 organization or is it a person that applies?

24 A. From our standpoint it's an organization, ward, or
25 otherwise that applies for status as a registered community

1 organization.

2 Q. And so Mr. Carnes asked you about the appeals process
3 when an application is rejected. Do you remember that line
4 of questioning?

5 A. I do.

6 Q. Who takes the appeal if the application is objected -- or
7 is rejected?

8 A. So as stated, I believe that I -- it's not something that
9 has actually happened in my time as RCO coordinator, and so
10 I'm not intimately familiar with the process, but my
11 understanding is there's a time period for appeal, and then
12 that appeal ultimately goes to the planning commission and
13 the commissioners themselves to decide on the merits of the
14 application or the appeal.

15 Q. And is it the organization that appeals, or is it the
16 person that submitted the application?

17 A. I don't know exactly what the language is, but I would --
18 again, I would consider it. The organization was, in that
19 case, rejected for RCO status and the organization is
20 appealing that decision.

21 Q. And you testified that it's your opinion that a city
22 councilperson is not authorized to make changes to any RCO,
23 is that right?

24 A. That's right.

25 Q. Who is?

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1 A. So sometimes that's not entirely clear. So clearly a
2 primary contact is, and that if we get that request to change
3 from a primary contact directly, the procedure is to make the
4 change. Apart from that, it's not clear, as I said, in cases
5 where it's contested, who exactly within an organization has
6 that authority. It's not explicitly stated anywhere that I
7 know of, but our position has generally been that the
8 leadership of that organization, who is, you know,
9 accountable to the organization itself and the community, has
10 the authority to make that change.

11 Q. What about a case where the primary contact is
12 unavailable because perhaps they are deceased or no longer
13 work for the organization? What procedure do you follow
14 then?

15 A. Yeah, so I don't think it explicitly states, but that is
16 listed as a situation in which a confirmation of the request
17 is not required, and that is a situation that has happened.
18 We have RCO primary contacts that leave the organization,
19 have a different email address or for whatever reason not
20 available, and in those cases we would make the change,
21 meaning the planning commission would make that change.

22 Q. Did council member Bass or any member of her staff
23 pressure you to make a change in this case?

24 A. No, I would say the request was made and we were clear
25 the form we'd like to have that request to be made in, but I

1 would not say that I felt pressured to make a change.

2 Q. Have you ever in your time as the RCO coordinator told
3 someone that you felt pressured by a council member to make a
4 change?

5 A. Not that I recall, no.

6 Q. Has a council member ever requested a change to RCO
7 contact information outside of this circumstance?

8 A. We certainly do, and I will say on more than one
9 occasion, receive requests to change contact information from
10 a council staffer. In most of the situations it's a
11 forwarded email that they received from an RCO
12 representative, for whatever reason reached out to them and
13 then they reached out to us and said look, this should be the
14 contact information. That person is, you know, no longer
15 with the RCO, that sort of thing. So I will say we have
16 gotten those sorts of requests through council staff offices,
17 and in those cases we follow essentially the same procedure
18 we said here, we'll try to get that confirmation from the
19 existing primary and kind of go through all the steps in our
20 regulation.

21 Q. You are the one who maintains the RCO contact list in
22 your role as RCO coordinator, is that right?

23 A. Correct.

24 Q. So when you say change the primary contact, what does
25 that actually mean?

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1 A. Yeah, so we have a database that lists all the RCO
2 contact information and we log in, we go on there, we make
3 the change in the system, and then it prints our updates from
4 there. So it will update the notification website where the
5 mailing list comes from for the actual notices. Ultimately
6 that would be reflected in the list that we keep online of
7 RCOs and their contact.

8 Q. And we've gone over several notification emails, at least
9 relating to the 244 East Springer Street property. What do
10 those notification emails contain?

11 A. So they are -- it's an email that is addressed to the
12 applicant, whether it's going to the zoning board or specific
13 design review, it lists the coordinating RCO I would say is
14 the most important information. And this is laid out in, you
15 know, the regs which would be in there. But it lists the
16 coordinating RCO, it explains the public engagement process,
17 what the applicant needs to do, what RCO responsibilities
18 are. It also contains the refusal to the notice of refusal
19 that was issued by the zoning board as an attachment to that
20 email.

21 Q. Is all of that material available publicly?

22 A. Yes.

23 Q. How would one access that material?

24 A. So there are a few different ways to access refusals. I
25 will say that that actual notice is available to anyone at

1 request. So anyone can ask for that notice and receive it
2 via email if they ask to do so. But other than that you
3 could go to a number of different city websites, search under
4 property address and the refusal document would be listed
5 there. The only information you wouldn't have public access
6 to at this point is who is designated as the coordinating
7 RCO. That information is available if someone asks for it,
8 but it's not considered publicly available by default.

9 Q. And RCO meetings on these applications, are they open to
10 the public?

11 A. So there's two rounds of meetings that are required.
12 There is a community meeting which is open to the public and
13 near neighbors receive an invitation to that, as do any
14 affected RCOs, and then the actual public hearing, whether
15 that's at the zoning board or civic design review, is open to
16 the public, opportunities for public testimony and public
17 comment.

18 Q. And for both sorts of meetings, are notices posted
19 publicly?

20 A. So the RCO -- the community meeting itself there is a
21 requirement to notice near neighbors with an invitation, and
22 then RCOs are expected to advertise their meetings, but there
23 is no public posting. When it comes to the public hearing or
24 the civic design review, those are posted on the property,
25 those details.

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1 Q. Did you remove Carla Cain as the contact person for the
2 22nd Ward Democratic Committee RCO?

3 A. I did remove Carla Cain as the primary contact and
4 replaced her with Ms. Foster.

5 Q. And you -- why did you do that?

6 A. I did that because we felt the request from the ward
7 leader was sufficient to make that change, and when we
8 received it then we changed it.

9 Q. Did you consider Ms. Cain's political views when you made
10 that decision?

11 A. No.

12 Q. Are -- were you aware of Ms. Cain's political views when
13 you made that decision?

14 A. I was not.

15 Q. Nothing further. Thank you.

16 CROSS EXAMINATION

17 BY MR. D. SMITH:

18 Q. Turn if you would to the regulations effective November
19 18, 2019. I believe they're at tab 10. Do you have them?

20 A. I'm there, yes.

21 Q. Okay, and if you would turn to page 30 and 31 of those
22 regulations.

23 A. Sure.

24 Q. Determination of eligibility and appeals is 12.3.3, is
25 that right?

1 A. Correct.

2 Q. And in 12.3.3.1 the eligibility determination is as to an
3 organization, is that right?

4 A. 12.3.3-1?

5 Q. Yes.

6 A. It refers to notifying an organization, yes.

7 Q. Yes, not an individual, but an organization?

8 A. Correct.

9 Q. Okay. And if we look at 12.3.3.2, at the top of the next
10 page, when a request has been denied it's an organization's
11 registration request that has been denied, is that right?

12 A. Correct.

13 Q. Not an individual's?

14 A. Correct.

15 Q. And it may, the organization may appeal that denial, is
16 that right?

17 A. Yes.

18 Q. Again, it speaks to the organization and not to an
19 individual, right?

20 A. Yes.

21 Q. And throughout this entire period, when there was a
22 question, if we're looking at 12.3.4, the executive director
23 may request additional documentation to verify any
24 modification to an RCO's registration information, is that
25 right?

1 A. Yes.

2 Q. Now here there was a dispute as to who was authorized by
3 the 22nd Ward Democratic Committee to speak for that
4 committee with respect to RCO matters, is that right?

5 A. Yes.

6 Q. And did you at the request of the executive director ask
7 for additional information?

8 A. I did.

9 Q. Of whom did you ask for that additional information?

10 A. I asked both council member Bass directly and her staffer
11 for that additional information.

12 Q. Okay. And did you determine that the leader of the 22nd
13 Ward Democratic Committee wanted an update of the information
14 for the designation of a new contact person?

15 A. We did.

16 Q. And did you regard that as sufficient to make that change
17 under 12.3.4?

18 A. Yes.

19 Q. Now you were asked a question by Mr. Martin about whether
20 a councilperson has the authority to make a change, and you
21 told him no. In this case, you weren't looking for a
22 councilperson's opinion or direction, you were looking for
23 the leader of the organization that was registered, is that
24 right?

25 A. Correct.

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1 Q. And although you knew that a councilperson who was also a
2 ward leader had objected to the designation of Ms. Cain for
3 close to two years, you didn't jump at that councilperson's
4 preference, is that right?

5 A. That's correct.

6 Q. But instead you did your investigation for additional
7 information and made a considered decision, is that right?

8 MR. CARNES: Objection. It's a leading question.
9 The answer is yes.

10 THE COURT: Sustained.

11 MR. D. SMITH: Okay.

12 BY MR. D. SMITH:

13 Q. Did you satisfy yourself by your investigation that the
14 change was warranted by the leadership of the organization
15 that had been registered?

16 A. We did. We felt that was reasonable and consistent with
17 our practice in the past.

18 MR. D. SMITH: Okay, I have no further questions.

19 REDIRECT EXAMINATION

20 BY MR. CARNES:

21 Q. Just a few quick questions if I may, Mr. Goins. The RCO,
22 they're going to bring the neighborhood together and get
23 community comments. Do they not -- and you educate me. Do
24 they not supply some sort of a recommendation themselves?

25 A. Yeah, so there are different categories of RCOs when it

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1 comes to this process. Whoever is designated as the
2 coordinating RCO by the council office is required to supply
3 a summary or an account of the public meeting to the zoning
4 board or to civic design review board. Most of the time that
5 meeting summary also includes some sort of recommendation,
6 vote, or otherwise position that the RCO takes on the
7 development.

8 Q. And you say the RCOs, you're saying it plural, so the
9 coordinating and the other RCOs as well?

10 A. I would say the RCO, if I misspoke. So it would give
11 that -- the position of the coordinating RCO is typically
12 what is in that letter.

13 Q. Would it reference the other RCOs' comments or positions?

14 A. It should, if they participated in the meeting. The
15 letter is supposed to reflect what happened in the meeting
16 and the, you know, opinions that were expressed.

17 Q. So and I believe, you know, the practice in this area is
18 it's either the East Mount Airy or the West Mount Airy that's
19 the coordinating RCO when it's in this 22nd ward area, is
20 that correct?

21 A. I would say both of those RCOs are regularly assigned to
22 coordinate depending on, yeah, where the property is.

23 Q. And the council -- councilwoman Bass has the authority to
24 determine who is the coordinating RCO, correct?

25 A. That's correct.

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1 Q. So for 244 East Springer, I think we saw it was East
2 Mount Airy that was the coordinating RCO.

3 A. I would have to reference the email, but yes, sounds
4 reasonable.

5 Q. So at that point in September 2021, when this notice gets
6 sent out by you to the 22nd ward RCO, democratic ward RCO, at
7 that point Carla Cain would be permitted to get all the
8 information, know of the first meeting which was to be the
9 community meeting, and also have a copy of the actual
10 application in her hands so that she could share that with
11 the community and let them know why this application was
12 rejected, what the developer wants to do, and move forward
13 accordingly, correct?

14 MR. D. SMITH: Objection, Your Honor. We're way
15 past the scope of the cross.

16 THE COURT: Sustained.

17 MR. CARNES: Okay. Well, you were crossing his
18 comments, but I -- okay.

19 BY MR. CARNES:

20 Q. Did -- okay. The --

21 THE COURT: You -- counsel, you can make your
22 position. My understanding is, I don't see where something -
23 - other area was -- other door was opened.

24 MR. CARNES: Yeah.

25 THE COURT: But tell me where it was opened so you

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1 can ask your question.

2 BY MR. CARNES:

3 Q. Well, the question -- the suggestion was that the
4 coordinator is an email address that is used, and that you
5 removed the email address. All I'm trying to bring out is
6 that that actual -- whoever is that coordinator, has certain
7 duties then to communicate, to bring this to the -- which we
8 were going over just now, right?

9 A. Yes, they do have certain responsibilities.

10 MR. R. SMITH: Objection, Your Honor. The term
11 coordinator isn't -- I'm not sure whether he's referring
12 to --

13 MR. CARNES: Primary contact.

14 MR. R. SMITH: -- the coordinating RCO or the
15 prior --

16 MR. CARNES: Primary contact I meant to say.

17 BY MR. CARNES:

18 Q. The primary contact isn't just an email that gets taken
19 and removed, that primary contact goes to a person who has
20 certain responsibilities under the zoning code, right?

21 A. I would say that the organization or the RCO itself has
22 certain responsibilities. The primary contact could really
23 be any -- you know, in different organizations, that person
24 plays a different role that may or may not involve actually
25 facilitating the meeting. It's --

Goins - Redirect

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1 Q. Well --

2 A. -- just the primary contact that's listed for purposes of
3 verification.

4 Q. -- when the application is filled out, they identify a
5 schedule that they're going to have for meetings, they
6 identify a prior sample that they've provided previously for
7 that purpose, they identify where they're going to hold their
8 meetings and how they're going to communicate with the public
9 and that they under --

10 THE COURT: He answered your question. You asked
11 about the role of the primary person and contact person. He
12 said that could be a number of things.

13 MR. CARNES: All right, okay.

14 THE COURT: Including just being a conduit for
15 information to the organization.

16 MR. CARNES: Okay, but -- yeah, correct.

17 BY MR. CARNES:

18 Q. So it isn't just -- it can be a broad -- that person can
19 actually have a lot of functions.

20 A. Sure, the person who is listed as the primary contact
21 could play a lot of functions in the process, yes.

22 Q. Okay.

23 MR. CARNES: No, that's all. No further questions.

24 THE COURT: All right. You may step down. Thank
25 you.

Goins - Redirect

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1 A. Thank you.

2 (Witness leaves stand)

3 MR. CARNES: Can I call our next witness, Your
4 Honor.

5 THE COURT: How many more witnesses do you have?

6 MR. CARNES: May I confer with my co-counsel for a
7 minute on that? We have four listed, Your Honor, I just want
8 to talk with him about how long they might be and order of
9 calling.

10 THE COURT: All right. And how many witnesses are
11 you going to have?

12 MR. R. SMITH: At this point, Your Honor, I'm not
13 going to call anyone and I just want to --

14 THE COURT: Just what --

15 MR. R. SMITH: We're not going to call anyone.

16 THE COURT: All right.

17 MR. R. SMITH: We've covered it all, but I do want
18 to comment that Your Honor's order limits witnesses to those
19 who have been deposed and as I --

20 THE COURT: Well, let's took a -- take a look at
21 that because when I looked at my old orders and they were
22 somewhat conflicting, I must say. Why don't you all confer
23 and see what you need in in terms of telling the narrative
24 and getting the narrative out. My big part with witnesses
25 being deposed certainly I want counsel to know from each side

1 what the -- gist of the testimony would be so you would be
2 and able to prepare and if you knew who the witnesses were
3 you would have an opportunity to depose them. So I think the
4 objection would really if you were -- if they're calling the
5 witnesses, you need to depose them. So are they being called
6 as of cross?

7 MR. MARTIN: Your Honor, the four individuals are
8 Eleanor Sharpe, Jeanine Allen Bowens, both whom have been
9 referred to, and then very briefly Donald Mathis, and
10 Christine Foster.

11 THE COURT: And who hasn't been deposed?

12 MR. MARTIN: Mr. Mathis and Ms. Foster and that's
13 because there was a misunderstanding on our part as to
14 defense counsel accepting notices of the deposition. But --

15 THE COURT: All right, and they're not going to be
16 long, right?

17 MR. MARTIN: No, not long at all.

18 THE COURT: All right. Confer with counsel, then
19 confer with counsel in terms of who's needed and how long
20 and for what purposes. We will reconvene at ten after one.
21 So I'll give you a half hour break. I don't expect the
22 afternoon to go on long and you can talk potentially about a
23 briefing schedule. All right? Because I don't know that we
24 need argument at this point. It could be one joint brief for
25 the defense if you want to do that -- maybe you file an

1 initial brief both of you at the same time. And then file
2 the reply for each at the same time as well.

3 MR. MARTIN: That works.

4 THE COURT: All right?

5 MR. CARNES: Yes, thank you, Your Honor.

6 THE COURT: And just think about this -- the timing
7 of that of course you have to get the transcript -- probably
8 that the transcripts down here don't seem to take too long to
9 get. Okay?

10 MR. CARNES: All right.

11 THE COURT: See you in half an hour.

12 THE CLERK: All rise.

13 (Recess)

14 THE CLERK: The court is back in session.

15 THE COURT: All right. Are we all set?

16 MR. MARTIN: Yes, Your Honor.

17 MR. R. SMITH: Yes.

18 THE COURT: Well, we're going to break at 3:00 so if
19 you have witnesses that can't come back tomorrow afternoon,
20 then you should probably call them first because I'm not
21 all that optimistic that we'll finish by 3:00 so tomorrow
22 we'll pick up at 1:00 o'clock.

23 MR. MARTIN: Your Honor, I think -- I suspect we
24 will be able to finish this afternoon.

25 THE COURT: All right. That will be fine, too.

Sharpe - Direct

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1 MR. MARTIN: Yeah.

2 THE COURT: You may call you next witness.

3 MR MARTIN: Yes, we call Eleanor Sharpe.

4 ELEANOR SHARPE, PLAINTIFF'S WITNESS, SWORN

5 THE CLERK: Thank you. You can be seated. And if
6 you could please state your full name?

7 MS. SHARPE: Eleanore Sharpe.

8 TEH CLERK: And can you spell your last name?

9 MS. SHARPE: S-H-A-R-P-E.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION (AS ON CROSS)

12 BY MR. MARTIN:

13 Q. Ms. Sharpe, before I begin with my questions, I didn't
14 see -- were you here this morning and able to hear the other
15 testimony given?

16 A. I was not.

17 Q. Okay. That was going to change some of my questions, so
18 I'll ask you this. First of all, would you confirm what your
19 position is with the City.

20 A. Sure. I'm the Executive Director of the Philadelphia
21 City Planning Commission. I'm also the Deputy Director in
22 the Department of Planning and Development.

23 Q. And what is your involvement with RCO's in your position?

24 A. As Executive Director, I'm the final arbiter of any
25 questions staff might have about making decision.

Sharpe - Direct

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1 Q. Okay. And -- I think that take it you're aware this case
2 involves an RCO in the 22nd Ward and a request that was made
3 in terms of changing the primary contact person. Are you
4 familiar with that?

5 A. Yes I am.

6 Q. All right then. I'm going to go right to it. There is a
7 binder in front of you, I'd like you to please to turn to Tab
8 12 and look at Page 87. It says, "City 87" at the bottom of
9 the page.

10 (Witness reviews document)

11 A. Yes.

12 Q. All right. Now, it appears that this is a series of e-
13 mails that starts back on page 94 and comes forward. If you
14 need to refer to any of these to answer any of the questions
15 I have for you, feel free to take your time and you can look
16 at them.

17 A. Okay.

18 Q. My main question for you though is on page 87. If you
19 see there's near the center part of the page there's an e-
20 mail from Jonathan Goins to you with a couple people copied
21 of October 13th, 2021, 4:15 p.m. Do you see that?

22 A. I do.

23 Q. Do you recall this e-mail?

24 A. I do.

25 Q. Would you read it please?

Sharpe - Direct

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1 A. "Eleanor, I'm going to make this change unless you
2 object. Under current regulations the process involved
3 confirm the change with the existing primary contact, Carla
4 Cain, who will most certainly object. There is nothing that
5 says we can't make the change anyway as long as we're
6 comfortable saying the Ward leader act in writing and we
7 determine she has the authority to overrule your objection to
8 the change."

9 Q. And then, am I right that you responded to that e-mail a
10 few minutes later and it's printed there at the top and you
11 said "Yes, I'm good with this. Thanks."?

12 A. Correct.

13 Q. And the e-mail here from Mr. Goins to you as you just
14 read says, "...make this change unless you object." Are you
15 familiar with what this is referring to?

16 A. I'm not familiar with what you think I'm familiar with it
17 is referring to.

18 Q. All right, I'll ask this question.

19 A. Yes, please.

20 Q. Does this refer to removing Carla Cain as the primary
21 contact person?

22 A. Correct, yes.

23 Q. All right. Now when Mr. Goins said "There's nothing that
24 says we can't make the change anyway as long as we're
25 comfortable saying," and then there's some quoted language.

Sharpe - Direct

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1 A. Yes.

2 Q. Is that grounded in the regulations or the ordinances to
3 your knowledge?

4 A. It is now, yes.

5 Q. It is now, you said?

6 A. Yes.

7 Q. As of when?

8 A. I don't know. I'm not sure.

9 Q. Okay. Oh, is it fair to say you don't know if there was
10 anything like this in effect as of October 13th, 2021?

11 A. That is fair to say.

12 Q. Okay.

13 A. Then --

14 Q. So am I right then that this situation -- what happened
15 here was not something that was really following an expressed
16 ordinance or --

17 A. No.

18 Q. -- a regulation?

19 A. So it was following our practices.

20 Q. Following your practices, but not the ordinances or the
21 regulations in effect, correct?

22 A. There was no ordinance or regulation that specifically
23 determined how we would practice so we had a standard
24 practice of how we behaved.

25 Q. All right, so -- just one last question to confirm it.

Sharpe - Cross

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1 Nothing textually in the ordinance or the regulations you
2 were following and doing this.

3 A. Not that I'm aware of.

4 Q. All right. Thank you.

5 MR. MARTIN: Nothing else, Your Honor. Thank you.

6 (Pause in proceedings)

7 CROSS EXAMINATION

8 BY MR. R SMITH:

9 Q. Good afternoon, Ms. Sharpe.

10 A. Good afternoon.

11 Q. Do you recall having a call with Carla Cain about this
12 issue?

13 A. No.

14 Q. Okay. Do you having a call with council member Bass
15 about this issue?

16 A. No.

17 Q. Did you speak with a member of Ms. Bass's staff about
18 this issue?

19 A. Did not.

20 Q. Did you experience any pressure from the council member
21 or her office about this issue?

22 A. Did not.

23 Q. Did you make your recommendation when Jonathan asked for
24 your input based on the political views of Ms. Cain?

25 A. Did not. Don't even know what they are.

Sharpe - Cross

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1 Q. That was my next question. So you don't know what
2 they --

3 A. I do not.

4 Q. -- were at the time?

5 Q. Now counsel asked you about the regulatory language and I
6 would like to specifically ask you about a request to make a
7 change to information, if I remember correctly it's 12.3.4.
8 Do I have that right?

9 A. I don't the number.

10 Q. Your free to refer to it at any time.

11 (Witness refers to regulation)

12 Q. Now we have three versions there.

13 A. Yeah, and --

14 Q. It's a Joint Exhibit. Any one of them is fine for the
15 next series of questions. This portion has not changed.

16 A. 12.3.4., yes.

17 Q. Was I correct? Is that the making a change portion?

18 A. (Indiscern.). That is correct.

19 Q. Were you employed by the City Planning Commission when
20 this regulations were adopted?

21 A. I was.

22 Q. Does that regulation require that you confirm a Request
23 of Change with the primary contact for an RCO?

24 MR. MARTIN: Objection as to form, to the extent
25 it's calling for a legal conclusion.

Sharpe - Cross

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1 THE COURT: To the extent that what?

2 MR. MARTIN: It's calling for a legal conclusion.

3 THE COURT: I'll sustain it. I mean it says what it
4 says.

5 MR. R. SMITH. I'm going to ask the witness about
6 the promulgation of these regulations. I believe she can
7 speak to that --

8 THE COURT: No, we're not.

9 MR. R. SMITH: -- without making a legal conclusion.

10 THE COURT: We're not going to the promulgation of
11 the regulations. The regulations are the regulations. The
12 law is the law. I don't want to go into the promulgation of
13 them.

14 MR. R. SMITH: If I may proffer, Your Honor, my
15 question was going to why does it require that you check with
16 the primary contact. That's all.

17 THE COURT: All right. So first of all, does the
18 regulation say check with the primary contact?

19 MR. R. SMITH. It says confirm, Your Honor.

20 THE COURT: Confirm. All right.

21 MR. R. SMITH: Confirm the change.

22 THE COURT: All right. And you're going to ask her
23 why?

24 MR. R. SMITH: Yes.

25 THE COURT: All right.

Sharpe - Cross

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1 MR. R. SMITH: If she knows.

2 THE COURT: If she knows. You have to establish a
3 foundation and then ask her.

4 BY MR. R. SMITH:

5 Q. You testified that you were employed at the City Planning
6 Commission when these regulations were promulgated?

7 A. Correct.

8 Q. Were you involved in that process?

9 A. Yes.

10 Q. In what manner were you involved in that process?

11 A. The review. We review -- I review the regulations.

12 THE COURT: Yeah, we're not going to go over the
13 promulgations and why. There's -- when you promulgate a
14 regulation there's five or ten different people that weigh in
15 on why were doing something. So the regulation is the
16 regulation and it's required to let the primary contact person
17 know. So we're not going to go through why.

18 MR. R. SMITH: Very well, Your Honor. I -- only in
19 as much as it would help you determine the case. That's why I
20 asked. So if you're not interested, then there we are.

21 THE COURT: All right. I'm very much interested in
22 everything, but --

23 MR. R. SMITH: Understood.

24 THE COURT: But I got to limit it to, you know, what
25 the legal issues are and relevancy and fairness to the

Sharpe - Cross

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1 parties. I can't have one person come in that was there and
2 say "Well this is why," I'm not going to do that. I -- you
3 know -- so it requires the primary person be contacted and
4 we'll leave it at that. Go ahead, Counsel.

5 MR. R. SMITH: Thank you.

6 BY MR. R. SMITH:

7 Q. Does that regulation contain circumstances under which the
8 primary contact does not need to verify the change?

9 A. Yes, if they're unavailable.

10 Q. Can you please read that sentence of the regulation so we
11 have it context?

12 A. "...unless the primary contact is unavailable due to
13 death, medical condition, or other exceptional circumstances."

14 Q. Would you considerable a dispute over who the primary
15 contact should be other exceptional circumstances?

16 MR. MARTIN: Objection, Your Honor.

17 THE COURT: Sustained and I'll rule on that right
18 now. That -- the dispute would be a reason. I'll tell you
19 that right now. Dispute would not be a reason they're
20 unavailable. Unless that person says "I'm in dispute and I'm
21 unavailable." So we'll shut that door right now.

22 BY MR. R. SMITH:

23 Q. We heard testimony and I'm going to ask about the role of
24 RCO's in the zoning process. An RCO gives a report or a
25 summary of their public meeting to the zoning board. Is that

Sharpe - Cross

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1 right?

2 A. Correct.

3 Q. After an applicant contacts the RCO?

4 A. I coordinate the RCO. Yes.

5 Q. Could you describe that process please?

6 A. Sure. The notification process is where RCO's get
7 involved and the notification is to inform near neighbors who
8 live in a community about development activity in their
9 community, giving them an opportunity to attend a public
10 meeting to meet with developers and weigh in on their thoughts
11 and opinions on any proposed development in their
12 neighborhood. The City sees the RCO's as a conduit for that
13 information so we inform -- coordinate the RCO's assigned by
14 city council about applications in their neighborhood and copy
15 -- I forgot how we label it -- RCO's within that boundary area
16 of that potential application as well and the feedback is them
17 summarized hopefully and presented at the Zoning Board of
18 Adjustment or Civic Design Review.

19 Q. And in your experience is that feedback credited more than
20 any other source of feedback?

21 THE COURT: Can we go to sidebar for one minute
22 everybody?

23 (Sidebar on the record)

24 THE COURT: So, I got an understanding that you guys
25 weren't going to be calling any witnesses, all right. That's

Sharpe - Cross

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1 what I thought. So we have a witness who talked all of two
2 seconds, right. And now we're way beyond what that witness
3 testified to and I'm just wondering, in all due respect, what
4 you're laying your foundation for with this witness.

5 MR. R. SMITH: This last series of questions, Your
6 Honor, I think addresses the irreparable harm prong that --
7 the point I'm trying to make is that Ms. Cain can still weigh
8 in on applications --

9 THE COURT: Yeah

10 MR. R. SMITH: -- in a manner she sees fit.

11 THE COURT: And I think we have that.

12 MR. R. SMITH: Very well.

13 THE COURT: But you can get right to that and ask
14 her.

15 MR. R. SMITH: Very well. I was trying to give it
16 some context --

17 THE COURT: All right --

18 MR. R. SMITH: But I apologize.

19 THE COURT: No, you don't have to apologize. I just
20 want to find out where we are and where we're going.

21 MR. R. SMITH: Understood.

22 THE COURT: All right.

23 MR. R. SMITH: Thank you, Your Honor.

24 (Sidebar ends)

25 BY MR. R. SMITH:

Sharpe - Redirect

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1 Q. Ms. Sharpe, is the feedback that an RCO provides in your
2 experience given any more credence or consideration than
3 feedback from any source --

4 A. No.

5 Q. -- on a zoning application.

6 A. No, it's not.

7 Q. Thank you.

8 MR. R. SMITH: That's all I have.

9 MR. D. SMITH: I have no questions of this witness.

10 THE COURT: Any follow-up just on this question?

11 MR. MARTIN: Yea, one question please.

12 REDIRECT EXAMINATION

13 BY MR. MARTIN:

14 Q. Ms. Sharpe, did you say the RCO's give advice to the
15 Planning Commission -- I'm sorry, give a recommendation to the
16 Planning Commission?

17 A. No.

18 Q. Give it to the Zoning Board of Adjustments?

19 A. To the Zoning Board of Adjustments.

20 Q. All right. Thank you.

21 MR. MARTIN: Nothing else.

22 THE COURT: You can step down, Thank you.

23 (Witness leaves stand)

24 MR. CARNES: Your Honor, we have a last witness,
25 Christine Foster who's here. Ms. Foster.

Foster - Direct

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1 CHRISTINE FOSTER, PLAINTIFF'S WITNESS, SWORN

2 THE CLERK: You can be seated. And can you state
3 your full name please?

4 MS. FOSTER: Christine Foster.

5 THE CLERK: And can you spell your last name.

6 MS. FOSTER: F as in Frank, O-S-T-E-R.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MR. CARNES:

10 Q. Good afternoon, Ms. Foster.

11 A. Good afternoon.

12 Q. May ask you a few questions? You've got a folder in front
13 of you there.

14 A. Which one, this one or this one {witness indicates}?

15 Q. The big one.

16 A. Okay.

17 Q. Yep. Go to Exhibit 3 and you put a third tab in there if
18 you could.

19 A. Okay.

20 Q. And that's a -- application that has a submittal date of
21 August 13th, 2020. Do you recognize that?

22 A. Yes, I do.

23 Q. And is that something that has an your -- an organization
24 address, a meeting location, and so forth? And a primary
25 contact person is listed on the second page and the name is

Foster - Direct

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1 Christine Foster. That's your name right?

2 A. Yes.

3 Q. Okay. Now, did -- we heard the testimony previously and I
4 don't know if you -- I think you were here for the whole
5 proceeding.

6 A. Yes, I was.

7 Q. So you heard Ms. Bass testify that -- you know she wanted
8 to put somebody else in this position, right?

9 A. That is correct.

10 Q. So she contacted you, right?

11 A. Yes.

12 Q. Okay. And she asked you if you would be the primary
13 contact.

14 A. Yes.

15 Q. Okay. And when did she bring this to your attention of --
16 keeping in mind that this application was submitted on August
17 13th, 2020?

18 A. It was, I can't give you the exact month and date but it
19 was in the year 2020.

20 Q. Okay. And did you ever find out what this -- what the --
21 what happened here whether you became the primary contact in
22 2020?

23 A. Can you --

24 Q. Did you ever find out in 2020 whether or not you became
25 the primary contact of the 22nd Ward Democratic Committee RCO?

Foster - Direct

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- 1 A. Yes.
- 2 Q. And when did you find out?
- 3 A. I can't tell you the exact date, but I was notified, yes.
- 4 Q. Okay. So in 2020 did you receive notices regarding ZHB
- 5 hearings and things of that nature.
- 6 A. What hearings?
- 7 Q. Zoning Hearing Board.
- 8 A. No.
- 9 Q. Okay. Now were you contacted by Mr. Goins who you heard
- 10 testify previously?
- 11 A. Through e-mails, yes,
- 12 Q. In 2020?
- 13 A. I believe so, yes.
- 14 Q. Okay. And you and Mr. Mathis are friends?
- 15 A. No.
- 16 Q. Do you know him at all?
- 17 A. I know of him. He's the committee person --
- 18 Q. -- and
- 19 A. -- but we're not -- I don't have any contact with him,
- 20 no.
- 21 Q. Have you ever met with him?
- 22 A. No.
- 23 Q. Right. Did you have any -- after 2020 we go to 2021. Did
- 24 you -- let me back up a second. When you filled this out this
- 25 2021 there's a bunch of things that you certify to, like

Foster - Direct

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1 reading the Planning Commission regulations, things of that
2 nature. Did you read the Planning Commission regulations?

3 A. Let me -- where are they so I can take a look at them?

4 Q. Okay, It's on Page -- if we go to the same exhibit that
5 we were on before --

6 A. -- in Section 3?

7 Q. Yes. So go back in the page -- four pages back, you'll
8 see there's certifications. And the first one is "I have read
9 the Planning Commission regulations." Do you see that?

10 A. Well, I remember that, yes, because in order to accept
11 something, you have to certify that you read everything.
12 That's just common sense.

13 Q. Right. Did you read those regulations?

14 A. Yes. I read them.

15 Q. Okay. And did you become aware of what the process was to
16 renew that application in 2021?

17 A. To renew?

18 Q. Yes.

19 A. I don't recall. No.

20 Q. Did you -- were you aware that application forms are
21 perceived on June of every year, but it would be every two
22 years that renewals would take place?

23 A. No.

24 Q. Did you ever review the city website governing RCOs and
25 their functions?

Foster - Direct

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1 A. No.

2 Q. Okay. Now, let's turn to 2021, did you have any
3 communication in 2021 as an RCO for the 22nd ward Democratic
4 committee?

5 A. With regards to what?

6 Q. Procedures in front of the zoning hearing board, things of
7 that nature.

8 A. No, because you have to understand, the pandemic and
9 everything was shut down. No.

10 Q. Okay. How about now in 2022? Have you received any
11 notification of any hearings?

12 A. The only thing I received, because my name is registered
13 as the RCO person, and my email is registered as well, I get
14 emails. I have gotten emails in regards to people requesting
15 zoning hearings in regards to certain properties.

16 Q. Have you done anything in response --

17 A. No.

18 Q. -- to those emails?

19 A. No. I just read them. No.

20 Q. Did you discuss this with Cindy Bass in terms of what your
21 response was going to be to emails that you would receive as
22 the contact person for the -- I mean, excuse me, the primary
23 contact person for the --

24 A. We talked about it.

25 Q. And what did she tell you to do?

Foster - Direct

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1 A. Well, at the time we talked about it because of the
2 pandemic and everything, just hold off on everything because I
3 needed to know what the procedures were and how to move
4 forward. Was there any training or anything? Any classes to
5 go to or anything. So that's something she said that we will
6 discuss.

7 Q. Well, now the pandemic is over. It's been over for a
8 little while. What did you discuss about it afterwards?

9 A. I haven't.

10 Q. You haven't spoken with her?

11 A. Everything's still on hold.

12 Q. What --

13 A. I haven't gotten anything in email as far as any kind of -
14 - I did -- there was an email that came out, probably
15 circulated to all the RCOs from Jonathan Goins (phonetic)
16 about some kind of training -- some kind of notification of
17 training. I think I responded back and he said that I wanted
18 to accept that.

19 Q. What about -- like, for instance, if you got an -- did you
20 ever get an email regarding a zoning application of 244 East
21 Springer Street?

22 A. No. I can't recall. No.

23 Q. Did -- the zoning applications that you received, you just
24 never responded to them at all.

25 A. Like I said, I get a lot of emails in regards to a lot of

Foster - Direct

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1 properties where people are requesting certain things for
2 zoning or whatever. Okay? I don't open up every single one
3 of them and read, read, read, read. Okay?

4 Q. Okay.

5 A. No.

6 Q. Now, in terms of the process that took place in August of
7 2020 when you filled out that application that we reviewed a
8 little while ago?

9 A. Well, let's back up a little bit. I didn't fill out any
10 application. What you see here, and I'm going to make it very
11 clear.

12 Q. Okay.

13 A. What you see here, all this here, and this last page where
14 you certify, I remember that. Okay? As far as any
15 information, I remember, you know, emailing Jonathan's office
16 if they're asking me for certain information, like my email,
17 phone contact numbers. Those are the things I submitted to
18 them. If I had filled out an application, I would have
19 remembers because I'm a very detail-organized person, and I
20 would have printed it out, and I would have made a copy of it,
21 and filed it.

22 Q. So then you're telling me that this exhibit that's Exhibit
23 3, you did not fill this out?

24 A. No. The information I gave to them, okay, I gave them my
25 information that they asked me for. Whatever information I

Foster - Direct

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1 gave to them. Did I physically fill out the application? No.

2 Q. Okay. Back up a little bit and tell me who them is. Is
3 that Mr. Richardson?

4 A. No.

5 Q. The staff members for Cindy Bass?

6 A. No.

7 Q. Is it Mr. Goins?

8 A. His office requested certain information from me, Jonathan
9 Goins office sent -- asking me if I wanted to, you know, be
10 the RCO, if I would agree to it, which I did. Okay. Then I
11 had to submit him certain information, which I did, like I
12 said, my information, my address, my phone numbers, my emails.

13 Q. Okay. And you -- and this certification that's on the
14 back page here that says Cindy Bass, ward leader, did you ever
15 see that before?

16 A. Yeah, because she had to sign off on it. Yes.

17 Q. Okay. But the rest of it, you never signed -- you never
18 filled out?

19 A. Everything was done electronically, I'm assuming. Okay?
20 It wasn't like an application where I sat there and filled it
21 out, and mailed it in, or scanned it back.

22 Q. But when -- I mean, you're saying you assumed it was
23 electronic. Did you -- do you remember --

24 A. Well, this looks like an electronic application.

25 Q. I know. But I'm just asking you about your recollection.

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- 1 Do you remember sitting down in front of a computer --
- 2 A. No.
- 3 Q. -- and filling it out?
- 4 A. No.
- 5 Q. Okay. So you wouldn't have gone through these -- filled
- 6 out these sequentially on a computer?
- 7 A. No.
- 8 Q. Thank you.
- 9 A. Like I said, they asked me for certain information once I
- 10 accepted the position, and I replied back to the office.
- 11 Q. Okay. Now, going back to before that August 13th, when
- 12 you spoke with Ms. Bass, you're a committee person in the 22nd
- 13 ward; is that right?
- 14 A. Yes, I am. Division 29.
- 15 Q. Okay. And Carla is in the 25th division; is that right?
- 16 A. I guess.
- 17 Q. Okay. Did you have a meeting -- a ward meeting where this
- 18 was brought up or discussed?
- 19 A. The what was discussed?
- 20 Q. You being the primary contact for the 22nd ward Democratic
- 21 party RCO?
- 22 A. No. Huh-uh.
- 23 Q. No?
- 24 A. No. You mean, in other words, did we all have a meeting
- 25 in a room with everybody?

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1 Q. Yeah.

2 A. No.

3 Q. The meeting was just between you and Cindy Bass, right?

4 A. Well, she called me and asked me, yes.

5 Q. Okay. Now, in 2021, there was kind of a deadline to
6 reapply in June, and you said you weren't aware of that.

7 A. That is correct.

8 Q. So you didn't apply?

9 A. No, I did not.

10 Q. Now, in September of 2021, turning to, if you would
11 please, Ms. Foster, to Exhibit -- I guess it's 13. It's
12 really in the back there. It's called the Bass Exhibits.
13 And --

14 A. Okay.

15 Q. -- if you go to -- go pretty much to the end there. Do
16 you see where it says Bass 13?

17 A. Okay.

18 Q. And it's sort of -- in the middle of the page there, it
19 says RCO notification. And it says --

20 THE COURT: What page are you looking at? I'm sorry.

21 MR. CARNES: Bass 13. Page --

22 A. I've got Bass 13.

23 BY MR. CARNES:

24 Q. Yeah. It says, "From RCO notification. Sent Monday,
25 September 20, 2013, to Vern at A Law Philly," and so forth, do

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- 1 you see that? 2021, excuse me.
- 2 A. On Bass 13?
- 3 Q. Yeah.
- 4 A. No.
- 5 Q. Well, it's an email.
- 6 A. I'm looking at the same page.
- 7 Q. All right. Do see where it says, "Dear Applicant, you
- 8 have filed an appeal to the Zoning Board of Adjustment for 244
- 9 East Springer Street, Permit #ZP --"
- 10 A. Well, I see that part, yes.
- 11 Q. Okay. Now, that came from RCO Notification up top. See
- 12 above that?
- 13 A. Attention registered community organization?
- 14 Q. No, below that. The next paragraph down. It says, "From:
- 15 RCO Notification."
- 16 A. Yes.
- 17 Q. Okay. So September 20, '21 at 3:17, this RCO notification
- 18 went out, and at that time, it went to in the cc's a Carla
- 19 Cain, or C. Cain225 -- 2225@gmail, and info@eastmountairy, and
- 20 people like Charles Richardson --
- 21 A. Yes.
- 22 Q. -- and Tyrone Barge.
- 23 A. I see it. Uh-huh.
- 24 Q. See that? Do you know who Charles Richardson is?
- 25 A. Yes.

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- 1 Q. Who is he?
- 2 A. He works in Cindy's office.
- 3 Q. How about Tyrone Barge?
- 4 A. He works in Cindy's office.
- 5 Q. Okay. You know them.
- 6 A. I don't know them personally, but I know who they are.
- 7 Q. Okay. Now, that was referenced at 244 East Springer
- 8 Street down below, and turning to page 12, it says in the
- 9 middle, see the big word "no" in bold print?
- 10 A. Bass 12?
- 11 Q. Yeah. Yes.
- 12 A. Contact. Okay.
- 13 Q. Okay. So do you see the word no?
- 14 A. Yes.
- 15 Q. Okay. So that's tied to an email that says the contact
- 16 for the 22nd Ward Democratic Committee is no longer C. Cain.
- 17 And it then refers to you, FosterChristine01@yahoo.com.
- 18 That's you, right?
- 19 A. Yes.
- 20 Q. Okay. Do you -- did you ever receive that documentation
- 21 regarding 244 East Springer Street?
- 22 A. No. And there's a mistake on here too.
- 23 Q. Okay.
- 24 A. If I might ask. First of all, that's not the email
- 25 address I use. I told them do not use that email address.

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1 And that is not the phone number I asked them to use. I had
2 changed that, and sent back an email telling them what email
3 to use, as well as what phone number to use.

4 Q. And I assume they corrected that later. This was early
5 on.

6 A. Yes, they did.

7 Q. Okay. So also in front of you is an exhibit -- a small
8 exhibit book. If you could just turn to Exhibit P-6 in that.

9 A. I'm sorry, what?

10 Q. P-6.

11 A. P-6?

12 Q. Yeah. Yes, please.

13 A. Okay.

14 Q. And this is a -- this purports to be the Zoning Board of
15 Adjustment Appeals calendar and there's reference in there on
16 the second page. It's kind of circled. At 7/20/22, 244 East
17 Springer Street, Zoning Board of Adjustment.

18 A. Okay.

19 Q. ZP2021006922. Now, that never has come before you at any
20 point in time, not in 2021 or 2022; is that correct?

21 A. Okay. Let me back up a little bit. Like I said to you, I
22 don't know anything about these Springer Streets. Like I said
23 to you, because I'm part of the -- because I'm on the list for
24 the RCOs, I get emails for people inquiring about certain
25 property. Okay? A lot of addresses coming above my email for

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1 certain properties and certain areas. A Springer Street came
2 up. I don't know whether it's the same address. Okay? But
3 I've seen -- in regards to Springer Street. I've seen in
4 regards to other property. I can't sit up here and say that
5 225 was one of the addresses I saw on Springer Street.
6 Springer Street, the street came up, yes. I wasn't paying
7 attention as to what exactly the address it was, because I get
8 -- because I got a lot of them.

9 Q. Okay. So what have you been doing as the primary contact
10 for the 22nd ward Democratic committee RCO?

11 A. For right now, I explained to you, everything was a
12 standstill. I haven't done anything as of yet. I haven't
13 been to any RCO meetings. We haven't conducted any RCO
14 meetings. There was a notation that was mentioned by Ms.
15 Carla Cain that there was an RCO meeting at the Truelight
16 Church, which is not true.

17 Q. Excuse me. What? Truelife Church?

18 A. Truelight Church. The church. It was mentioned by her
19 that there was a meeting held at Truelight Church in regards
20 to an RCO meeting. We have never had an RCO meeting at
21 Truelight Church. What we have at Truelight Church is
22 Cliveden Hill Associates meeting. That's a neighborhood
23 association meeting that we have every month once a month.
24 Okay? Cliveden Hill Association is a registered RCO and it
25 has been for over 25-something years. Okay? We have monthly

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1 meetings every month. We discuss a lot of things that's going
2 on in the neighborhood, crime, violence, just all sorts of
3 things. There was an incident if I must -- if I may --
4 Q. No, you're not answering my question.
5 A. Okay.
6 Q. There's no question in front of you right now.
7 A. Okay. Okay.
8 Q. I appreciate your exposition, but no. So the -- are you -
9 - let me -- but it does lead to a question. Are you a member
10 of the Cliveden Hill --
11 A. Absolutely. I'm vice president. Yes.
12 Q. So you're the vice president of another, and do you
13 participate in that as an RCO?
14 A. Excuse me?
15 Q. Do you participate in that as a primary contact for an
16 RCO?
17 A. What? Cliveden Hill?
18 Q. Yeah.
19 A. No. Like I said. Back up a little bit. Let me explain
20 something to you. Cliveden Hill, huh-uh, please. You asked
21 me a question. I'm going to answer it, okay?
22 Q. That's fine.
23 A. Cliveden Hill Association is an organization of the
24 neighborhood, of all the neighbors. Okay? We have a meeting
25 there every month. It's not an RCO meeting. We never had any

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1 RCO meetings.

2 Q. Okay.

3 A. Never at Cliveden Hill meetings.

4 THE COURT: All right. So can we get back on track?
5 Because part of this is this is not a review of performance.
6 We're not reviewing performance. So I understand what you're
7 saying. I don't see the weight of it in terms of the issues
8 involved.

9 MR. CARNES: Okay.

10 THE COURT: I mean, the person appointed is
11 appointed, whether they do something or nothing is not in
12 front of me.

13 MR. CARNES: Okay.

14 THE COURT: Unless you have a reason to tell me why
15 it is.

16 MR. CARNES: Well, Your Honor, I think -- I don't
17 want to -- yeah. I think -- there's a little bit of an
18 argument, Your Honor, that, you know, you have to -- sometimes
19 you need a little motivation or understanding. I know my
20 colleague disagrees with me a little bit about this, but I
21 won't pursue it if the Court doesn't feel it's important.

22 THE COURT: I agree with your colleague.

23 MR. CARNES: Okay. So we'll -- let me just --

24 BY MR. CARNES:

25 Q. In 2021, as we just looked at, there was a dispute over

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1 this 244 East Springer Street. And at one point, the planning
2 commission was saying that you were the RCO, the primary
3 contact for the RCO.

4 A. Because I'm on the list.

5 Q. Then they said --

6 THE COURT: Wait for a question.

7 BY MR. CARNES:

8 Q. Then they said it -- no, it's still Carla Cain. And then
9 it came back to you. The final determination was made on --
10 if you've listened to the testimony, on October 13th, the
11 councilwoman wrote a letter in her capacity as ward leader and
12 stated that she wanted you to be the primary contact. You
13 heard that in the back --

14 A. Right.

15 Q. -- of the courtroom. So from then on, you were the
16 primary contact.

17 A. Yes.

18 Q. Prior to being reestablished or established as the primary
19 contact in 2021, not 2020, did you have any communication with
20 Jonathan Goins to determine or confirm that you were still
21 interested?

22 A. I just explained to you a few minutes ago that I sent him
23 an email. He asked me if I agreed to it. Yes. To confirm, I
24 said yes.

25 Q. But my understanding, that was in 2020 when you filled out

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1 that --

2 A. I can't -- listen, it all started in 2020. Okay?

3 Q. Yes.

4 A. Everything started in 2020.

5 Q. Did it get repeated in 2021? Did you have further
6 conversations in 2021?

7 A. I can't remember the exact date. All I remember is the
8 fact that I accepted the position when it was first offered to
9 me in 2020. There was a discussion about me sending in my
10 information. He asked me do I agree to it. I said yes. I
11 can't remember if that's 2021, in the middle of 2021 or what,
12 but yes.

13 Q. Okay.

14 A. Between '20 and '21. Probably in '21, because things had
15 to go through a process.

16 MR. CARNES: All right. I have no further questions.
17 Thank you very much.

18 A. All right. Thank you.

19 MR. D. SMITH: I have no questions.

20 MR. R. SMITH: Nothing from me, Your Honor.

21 THE COURT: All right. Thank you. You may step
22 down.

23 (Laughter)

24 A. I'm sorry. Thank you. It's just so cold in here. It's
25 freezing. Thank you.

1 THE COURT: That's why I wear a robe.

2 (Laughter)

3 (Witness leaves stand)

4 MR. CARNES: Your Honor, that concludes all the
5 witnesses that we have.

6 THE COURT: All right.

7 MR. CARNES: If I could just say, we do have an
8 agreement as to exhibits.

9 THE COURT: No other witnesses?

10 MR. D. SMITH: No other witnesses, Your Honor.

11 MR. R. SMITH: None from the City.

12 THE COURT: All right. And what's the briefing look
13 like then?

14 MR. D. SMITH: Three weeks and three weeks, Your
15 Honor, from the receipt of the transcript.

16 THE COURT: So three weeks to -- three weeks to brief
17 from both sides from the receipt of the transcript, and then
18 three weeks to respond.

19 MR. D. SMITH: Correct.

20 THE COURT: From receipt of the briefs. Is that
21 right?

22 MR. D. SMITH: Yes.

23 THE COURT: All right.

24 MR. CARNES: Your Honor, the understanding or
25 agreement between parties is that the exhibit list would all

1 be introduced into evidence, as well as Exhibit P-6 in the
2 smaller binder.

3 THE COURT: All right. So admitted.

4 (Plaintiff's Exhibits admitted into evidence)

5 MR. CARNES: Thank you, Your Honor.

6 THE COURT: All right. Thank you all. Don't forget
7 to order the transcript. Okay?

8 MR. D. SMITH: Yes.

9 MR. CARNES: Do you want me to take back the -- is
10 that the -- how do you want that?

11 THE COURT: As long as we have one copy, you can take
12 back everything else, okay?

13 MR. CARNES: Yeah.

14 THE COURT: As long as we have one copy.

15 MR. CARNES: There are extra exhibits in there that,
16 you know, have not been introduced. Maybe we should take them
17 back just so that they're not --

18 MR. D. SMITH: Yes.

19 MR. CARNES: -- hanging out there for you.

20 THE COURT: Which --

21 MR. CARNES: In that smaller version. All of P-6
22 could stay.

23 THE COURT: All right. All right, counsel. Thank
24 you.

25 THE CLERK: All rise, please.

1 ALL: Thank you, Your Honor.

2 (Court adjourned)

3

4

CERTIFICATION

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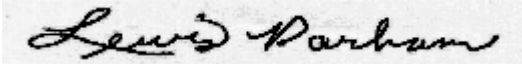
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A handwritten signature in cursive script that reads "Lewis Parham". The signature is written in dark ink on a light-colored background.

9/16/22

Signature of Transcriber

Date